

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

OFFICE OF THE ATTORNEY
GENERAL, STATE OF INDIANA,

Plaintiff,

v.

MV REALTY OF INDIANA, LLC, MV
REALTY HOLDINGS, LLC,
MV REALTY PBC, LLC, MV
BROKERAGE OF INDIANA, LLC, AND

AMANDA J. ZACHMAN F/K/A AMANDA
ZUCKERMAN, ANTONY MITCHELL,
DAVID MANCHESTER,
INDIVIDUALLY,

Defendants.

CASE NO. _____

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

**COMPLAINT FOR PERMANENT INJUNCTION, RESTITUTION, CIVIL
PENALTIES, AND OTHER EQUITABLE RELIEF**

INTRODUCTION

The Plaintiff, the State of Indiana, by and through its Attorney General Theodore E. Rokita, files this Complaint pursuant to statutes as set forth below against MV REALTY OF INDIANA, LLC, MV REALTY HOLDINGS, LLC, MV REALTY PBC, LLC, MV REALTY BROKERAGE OF INDIANA, LLC, AMANDA J.

ZACHMAN f/k/a AMANDA ZUCKERMAN, an individual, ANTONY MITCHELL, an individual, and DAVID MANCHESTER, an individual, (collectively “Defendants”).

The State of Indiana brings this action to enjoin the Defendants from further pursuit of an aggressive and illegal robocalling and telemarketing operation that targeted Hoosier homeowners offering them cash payments in exchange for a future interest in the sale of the homeowner’s real property. Defendants’ “Homeowner Benefit Agreement” (“HBA”) is nothing more than a disguised extension of credit with implicit interest to be paid back by the homeowner at a future date. The HBA is designed to strip the homeowner’s equity in their real property. Through its misrepresentations and omissions of information related to the true nature of the HBA product, Defendants have caused substantial and ongoing harm to Hoosier homeowners.

The marketing, sale, and servicing of the HBAs by Defendants are illegal, unfair, deceptive, and abusive under numerous Federal and State consumer protection statutes. Plaintiff seeks to permanently enjoin this illegal conduct, void and release all HBA agreements and related liens attaching to real property, obtain restitution for consumer victims, and seek civil penalties for which Plaintiff is entitled to obtain on behalf of its residents in its role as *parens patriae* and by operation of law. In support thereof, the State of Indiana alleges as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a), 1355, the Telephone Consumer Protection Act

(“TCPA”), 47 U.S.C. § 227(g)(2), the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6103(e), and the Telemarketing Sales Rule (“TSR”), 16 C.F.R. § Part 310; the Truth-in-Lending Act, (“TILA”) 15 U.S.C. § 1601 *et seq.*, via 12 U.S.C. § 5536(a)(1)(A), and the Home Ownership and Equity Protection Act (“HOEPA”), 15 U.S.C. § 1639, §§ 1639a – 1639h, via 15 U.S.C. § 1640(e). The Court has pendant jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

2. Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1395(a), 47 U.S.C. § 227(g)(4), 15 U.S.C. § 6103(e), 12 U.S.C. § 5552(a)(1), and 15 U.S.C. § 1640(e). A substantial part of the events or omissions giving rise to the claims alleged in this Complaint occurred in this District.

3. Plaintiff notified the Federal Trade Commission (“FTC”) of this civil action prior to instituting such action, as required by 15 U.S.C. § 6103(b).

4. Plaintiff notified the Federal Communications Commission (“FCC”) of this civil action prior to instituting such action, as required by 47 U.S.C. §§ 227(e)(6)(B) and (g)(3).

5. Plaintiff notified the Consumer Financial Protection Bureau (“CFPB”) of this civil action prior to instituting such action, as required by 12 U.S.C. § 5552(b) and 15 U.S.C. § 1640(e).

PARTIES

A. PLAINTIFF

6. Plaintiff, State of Indiana, by and through its Attorney General Theodore E. Rokita, by undersigned counsel, is authorized by 47 U.S.C. § 227(g)(l) to file actions in federal district court to enjoin violations of, and enforce compliance with, the TCPA on behalf of residents of the State of Indiana, and to obtain actual damages or damages of five hundred dollars (\$500) for each violation, and up to treble that amount for each violation committed willfully and knowingly. The Attorney General is authorized by 15 U.S.C. § 6103(a) to file actions in federal district court to enjoin violations of and enforce compliance with the TSR and to secure remedies allowed under the 15 U.S.C. § 6103. Section 1036(a)(l)(A) of the Consumer Financial Protection Act of 2010 ("CFPA"), 12 U.S.C. § 5536(a)(l)(A), authorizes the Plaintiff to bring actions for violations of other Federal consumer financial laws set forth in the CFPA, including TILA, 15 U.S.C. § 1601, et seq. and HOEPA. The Attorney General is authorized by 12 U.S.C. § 5536(a)(1)(A) to file actions in federal district court to enjoin violations of and enforce compliance with the Truth-in-Lending Act and to secure remedies allowed under TILA. The Attorney General is authorized by 12 U.S.C. § 5536(a)(l)(A) to file actions in federal district court to enforce HOEPA and to secure remedies allowed under that statute. The Attorney General is an enforcement authority under Indiana state law and is therefore authorized to bring this action and to seek injunctive and other statutory relief pursuant to Indiana Code § 24-4.7 *et*

seq. (Telephone Solicitation of Consumers), § 24-5-14 *et seq.* (Auto-Dialer Act), § 24-5-12 *et seq.* (Telephone Solicitation), § 24-5-0.5 *et seq.* (Consumer Sales), § 24-9 *et seq.* (Home Loan Practices Act), and § 24-5-10, *et seq.* (Home Solicitation Sales Act).

B. CORPORATE DEFENDANTS

7. Defendant MV Realty of Indiana, LLC is an Indiana domestic limited liability company incorporated November 4, 2021, with a principal office address of 219 N. Dixie Blvd., Delray Beach, FL, 33444.

8. Defendant MV Realty Holdings, LLC is a Florida limited liability company incorporated on August 19, 2019, with a principal office address of 219 North Dixie Blvd., Delray Beach, FL, 33444.

9. Defendant MV Realty PBC, LLC is a Florida limited liability company incorporated on August 5, 2014, with a principal office address of 219 N. Dixie Blvd., Delray Beach, FL, 33444.

10. Collectively MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC will be referred to in this complaint as “MV Realty HBA Defendants” as the State of Indiana seeks to assert joint and several liability as to each claim asserted.

11. Defendant MV Brokerage of Indiana, LLC (“MV Brokerage”) is an Indiana domestic limited liability company incorporated October 3, 2022, with a principal office address of 219 N. Dixie Blvd., Delray Beach, FL, 33444. MV Brokerage of Indiana, LLC maintains an expired Real Estate Broker Company

License No. RC52200259 and is managed by its Managing Broker, Kenton Williams, License No. RB14023379.

12. MV Brokerage of Indiana's Real Estate Broker Company License No. RC52200259 expired on June 30, 2023. At the time of this filing, MV Brokerage of Indiana's Real Estate Broker Company License No. RC52200259 remains expired and renders MV Brokerage unable to engage in the practice of real estate¹.

13. Upon information and belief, MV Realty Holdings, LLC is the entity that owns one hundred percent of MV Realty PBC, LLC.

14. Upon information and belief, MV Realty of Indiana, LLC and MV Brokerage of Indiana, LLC are affiliates or wholly owned subsidiaries of MV Realty PBC, LLC.

15. MV Realty PBC, LLC operates substantially the same line of business across at least 32 states using multiple corporate entities. In this case, it is alleged that each state-specific LLC formed for the purpose of conducting business there is simply an alter ego of the Florida-based company and its executives, officers, and agents.

16. Collectively, this entire enterprise will be referred to as "MV Realty." "MV Realty" encompasses all corporate Defendants and individual Defendants.

¹ Another broker license was issued in the name "MV Realty," license no. RC52100307, also expired, with no clear connection to any of the entities named in this Complaint.

17. Each corporate Defendant above has transacted business in the Southern District of Indiana by utilizing a network of Indiana-based sales associates to engage in consumer transactions, as well as, by placing liens on real property located in Indiana as a means of securing payment from consumers related to MV Realty's disguised credit transactions known as HBAs.

C. INDIVIDUAL DEFENDANTS

18. Defendant Amanda J. Zachman f/k/a Amanda Zuckerman ("Zachman") is an individual residing in Florida. At all times relevant to this Complaint, she was a manager and lead broker of MV Realty and directly participated in, managed, operated, controlled, and had the ability to control the operations of MV Realty PBC, LLC and its affiliates and subsidiaries.

19. At all times relevant to this Complaint, acting alone or in concert with others, Zachman formulated, directed, controlled, had the authority to control, or participated in the acts and practices of MV Realty, including the acts or practices set forth in this Complaint.

20. Through her direct participation in, and control over, MV Realty, Zachman had knowledge of the acts and practices constituting the violations alleged herein, had control over them, and directly participated in them.

21. Defendant Zachman personally participated in the design and execution of Homeowner Benefit Agreements on behalf of Defendant MV Realty of Indiana, LLC.

22. Defendant Antony “Tony” Mitchell (“Mitchell”) is an individual residing in Florida. At all times relevant to this Complaint, he was an executive of MV Realty and directly participated in, managed, operated, controlled, and had the ability to control the operations of MV Realty PBC, LLC and its affiliates and subsidiaries.

23. At all times relevant to this Complaint, acting alone or in concert with others, Mitchell formulated, directed, controlled, had the authority to control, or participated in the acts and practices of MV Realty, including the acts or practices set forth in this Complaint.

24. Through his direct participation in, and control over, MV Realty, Mitchell had knowledge of the acts and practices constituting the violations alleged herein, had control over them, and directly participated in them.

25. Defendant Mitchell is an officer of Defendant MV Realty Holdings, LLC.

26. Defendant David Manchester (“Manchester”) is an individual residing in Florida. At all times relevant to this Complaint, he was the Managing Director and Chief Operating Officer of MV Realty and directly participated in, managed, operated, controlled, and had the ability to control the operations of MV Realty PBC, LLC and its affiliates and subsidiaries.

27. At all times relevant to this Complaint, acting alone or in concert with others, Manchester formulated, directed, controlled, had the authority to control, or participated in the acts and practices of MV Realty, including the acts or practices set forth in this Complaint.

28. Through his direct participation in, and control over, MV Realty, Manchester had knowledge of the acts and practices constituting the violations alleged herein, had control over them, and directly participated in them.

29. Defendants Zachman, Mitchell, and Manchester are officers of Defendant MV Realty PBC, LLC.

30. Defendants Zachman, Mitchell, and Manchester are officers of Defendant MV Realty of Indiana, LLC.

31. Defendant Manchester led MV Realty's operations team, which included Defendant Zachman.

32. Defendants Manchester and Zachman had access to, could review, and could respond to emails sent to and from info@homeatmv.com and pr@homeatmv.com.

33. Defendant Zachman has responded to consumer complaints.

34. Defendant Manchester was responsible for reviewing and approving MV Realty's advertising.

35. As principals, officers, and agents of MV Realty, Zachman, Mitchell, and Manchester, acting both individually and collectively, have directed the business and affairs of MV Realty, and are jointly and severally liable for the unfair, deceptive, and abusive acts and practices as alleged in this Complaint.

36. As principals, officers, and agents of MV Realty, Zachman, Mitchell, and Manchester have all transacted business in the Southern District of Indiana.

37. As principals, officers, and agents of MV Realty, Zachman, Mitchell, and Manchester have so misused to corporate form as to promote fraud, injustice, and illegal activities as stated herein.

FACTUAL ALLEGATIONS

A. BACKGROUND

38. MV Realty Holdings, LLC and MV Realty PBC, LLC are both Florida-based companies operating in Indiana and in at least 32 other states.

39. MV Realty of Indiana, LLC and MV Brokerage of Indiana, LLC are both Indiana domestic limited liability companies affiliated with the Florida-based companies with common ownership and control.

40. Sometime in 2019, MV Realty designed and began aggressively marketing a product called the Homeowner Benefit Agreement (“HBA”). MV Realty began the program in Florida and quickly expanded into multiple jurisdictions, including Indiana.

41. MV Realty refers to the entire program of selling HBAs as the Homeowner Benefit Program. In training and marketing materials, MV Realty uses the terms “Homeowner Benefit Program” and “Homeowner Benefit Agreement” interchangeably.

42. To market HBAs, MV Realty employed “Transfer Specialists,” who were remote telemarketers, and “Sales Agents,” who were licensed Indiana real estate agents.

43. As part of its investigation, Plaintiff deposed Todd W. Schneider on March 17, 2023. Mr. Schneider was a Sales Agent working for MV Realty. A true and accurate copy of the deposition is attached to this Complaint as Exhibit A. A true and accurate copy of the exhibits shown to Mr. Schneider as part of the deposition are attached as Exhibit B.

44. As of the date of this filing, MV Realty and related entities and individuals have been sued by Attorneys General in Florida, Ohio, Massachusetts, North Carolina, Pennsylvania, and New Jersey.

45. A Massachusetts court has entered a preliminary injunction against MV Realty,² in which the Court found:

“that the Commonwealth is likely to succeed in proving that MV has engaged in a pattern of unfair and deceptive conduct . . . by tricking homeowners into thinking that they would never have to repay the amounts that MV advanced to them and that they would owe no interest to MV, hiding the fact that MV would record a mortgage on the borrower’s property . . ., falsely representing that MV would serve as their agent in selling their home when MV never had any intent of doing so, not giving the borrower homeowners copies of their contract with and mortgage to MV until after the three-day period to rescind the arrangement expires, . . . and unlawfully closing mortgage loans without being represented by an attorney.”

Emphasis added.

² *Decision and Order Allowing the Commonwealth’s Motion for Preliminary Injunction* (Ordered February 21, 2023), <https://www.mass.gov/doc/20230221-comm-v-mv-realty-pi-decision/download>.

46. A North Carolina court also entered a preliminary injunction against MV Realty.³

B. THE DESIGN AND GROWTH OF THE HBA PRODUCT IN INDIANA

47. As early as January 2022, MV Realty began recording HBA agreements in county recorder offices across Indiana.

48. MV Realty rapidly expanded to include, to-date, at least 366 HBAs recorded across at least 65 Indiana counties.

49. Defendants marketed the HBA program as a “loan alternative,” offering between a \$300 to \$5,000 payment if the homeowner agrees to use MV Realty as their listing agent should they decide to sell their home in the next forty (40) years.

50. The amount paid to consumers, as a “Promotion Fee,” was based on a valuation model designed within Defendants’ proprietary case management system. Using this system, Sales Agents would offer cash payments totally approximately 0.3% or .003 of the home’s total estimated value.

51. During the summer of 2022, MV Realty changed the amount offered to consumers to 0.27% or .0027 of the home’s total value, based on a directive from investors to respond to changing market conditions and rising interest rates.

52. Pursuant to the HBA agreement, consumers are purportedly bound by a forty (40) year contract with MV Realty wherein they are required to retain the

³ *Attorney General Josh Stein Wins Preliminary Injunction in MV Realty Case*, Attorney General Josh Stein (Aug. 31, 2023), <https://www.mass.gov/doc/20230221-comm-v-mv-realty-pi-decision/download>.

company as listing agent should they decide to sell the home any time in the forty (40) year period.

53. Upon information and belief, a forty (40) year listing agreement is far more onerous than the industry standard for real estate listing contracts in the State of Indiana.

54. In Indiana, the largest "Promotion Fee" paid to a Hoosier was \$2,080 for a homeowner in Morgan County. The lowest payment was \$340 to a homeowner in St. Joseph County.

55. The average payment to Indiana consumers in return for signing an HBA agreement was a mere \$635.09.

56. Sales Agents were paid a \$500 commission, as employees, for each homeowner they were able to sign up for an HBA.

57. In some circumstances, the Sales Agents received a larger commission than the homeowner received as an incentive payment in connection with the HBA.

58. In Indiana, MV Realty paid their Sales Agents more in commission than 118 homeowners were paid to sign an HBA. Thus, MV Realty paid more in commission for approximately 32% of their Indiana HBAs.

59. MV Realty actively monitors and strictly enforces the one-sided and onerous terms of the HBA if the homeowner deviates from contract, requiring an Early Termination Fee to be paid in an amount equal to 3% of the market value of the home (as determined by MV Realty at the time the fee is assessed).

60. The market value of the home used in determining the 3% is the greater of the property's value at the time the HBA was signed or the fair market value of the property when there is an Early Termination Event or breach. This is determined by MV Realty.

61. The HBA agreement grants MV Realty a purported right to receive sales proceeds from homeowners, resulting in a minimum 10x rate of return for MV Realty upon repayment. For a token amount of money paid to a homeowner, MV Realty unfairly stands to gain potentially tens of thousands of dollars in return.

62. The incentive payment paid to homeowners, described in the HBA as a "Promotion Fee," is a disguised credit transaction with an implied rate of interest that can be quantified when either: a.) the homeowner utilizes MV Realty as their listing broker and consummates a sale; or b.) the homeowner is subject to an "Early Termination Event" subjecting them to have to pay an Early Termination Fee. In either case, the implied rate of interest is usurious, unfair, deceptive, and abusive.

63. If a homeowner were to pass away during the 40-year HBA term, which has happened to homeowners subject to the agreements in Indiana, MV Realty has sought to have their heirs either assume the obligations of the HBA and use MV Realty as their listing broker or pay 3% of the value of the home (valued at MV Realty's discretion) as an Early Termination Fee.

64. As part of the investigation into the HBAs, Plaintiff sent surveys to Hoosier homeowners with an HBA attaching to their real property.

65. Seventy percent (70%) of homeowners surveyed reported that they were not adequately informed that the agreement would last for 40 (forty) years.

66. Eighty-three percent (83%) of homeowners surveyed reported that they were not informed that the HBA agreement could possibly be binding on their heirs.

67. Seventy-eight percent (78%) of homeowners surveyed reported that they were not informed of their ability or timeline to cancel or rescind the agreement.

68. Ninety-one percent (91%) of homeowners surveyed indicated that they were not informed that MV Realty would record a Memorandum of Homeowner Benefit Agreement in the county recorder's office where their real property was located.

69. At least one targeted homeowner had previously been diagnosed with dementia and was subject to a power of attorney at the time the HBA agreement was purportedly executed because he was not able to handle his own financial affairs. With the assistance of his Power of Attorney, he returned the money to MV Realty in the form of a check demanding that they release him from his agreement. The consumer reported that the check remains uncashed and that MV Realty has not responded to his correspondence.

70. Another consumer survey respondent indicated that he had been trying to contact MV Realty to sell his house and that they would not respond to his requests for a listing.

71. MV Realty recorded the HBA agreements or a Memorandum of HBA in the public record of the county recorder's office where the real property is located.

This action, of which 91% of surveyed consumers are not even aware, has created a lien or cloud on title that restricts homeowners from selling or transferring any interest they have in the real property without making repayment to MV Realty.

72. The lien also restricts homeowners from accessing their home equity without paying a usurious and abusive rate of interest in the form of an Early Termination Fee to MV Realty.

73. In sum, the HBA prevents homeowners from selling, refinancing, or otherwise accessing their home equity without first satisfying the lien.

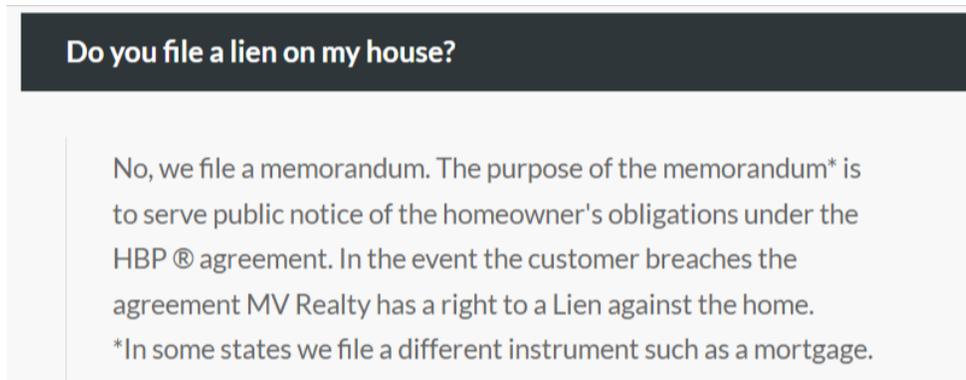
74. Mr. Schneider testified that other Sales Agents at MV Realty were having issues with the HBA being lifted to do a refinance. Ex. A (Schneider Deposition) at 92:9-16. Further, MV Realty would not lift the HBA in some cases because the person did not have enough equity. *Id* at 156:21-157:4.

75. The language in the HBA relating to public recordings deceptively states as follows:

Company reserves the right to record a memorandum of this Agreement, in form and substance similar to the Memorandum of MVR Homeowner Benefit Agreement attached hereto as Exhibit B (the "Memorandum"), to provide constructive notice of Company's rights hereunder. Upon Company's request from time to time, Property Owner shall provide Company with a written certificate or recordable amendment to the Memorandum confirming the existence of this Agreement and that this Agreement remains in full force and effect.

76. This language does not explicitly indicate that MV Realty intends to file a lien against the homeowner's property.

77. In fact, it is deceptively inconsistent with the FAQ on MV Realty's website at the time of filing, which states as follows⁴:



78. Instead of just directly indicating that the Memorandum of HBA can and will likely constitute a lien that must be released prior to the homeowner consummating a sale, refinance of their mortgage debt, or other disposition involving a homeowner's real property, MV Realty suggests that the HBA might only be a lien in the event of a homeowner's breach of the HBA.

79. MV Realty's communications with homeowners regarding the HBA constituting a lien against their real property are false and misleading and meant to conceal the fact that the Memorandum of HBA can and will serve as a cloud on a homeowner's title to their home from the moment their executed HBA is executed and subsequently recorded.

80. In MV Realty's marketing materials and communications with homeowners, MV Realty conceals the fact that these memoranda act as liens against the homeowners' real property.

⁴ *Frequently Asked Questions*, MV Realty, <https://homeownerbenefit.com/?src=9#faq> (last visited July 5, 2023).

81. MV Realty also instructed its Sales Agents not to send homeowners the HBA contract in advance of the signing of the HBA. Ex. A at 86:4-22; 175:5-7.

82. In MV Realty marketing and training materials as well as in communications with borrowers, MV Realty deceptively states that the money they lend to homeowners does not have to be paid back.

83. Despite deceptively claiming that the money they were providing to homeowners in exchange for the HBA was not a loan and not required to be paid back, MV Realty at various times purchased lead data for those whose purpose in providing their information was for “Refinance, Cash Out, VA and FHA” as well as “personal loans” – evidencing a clear intent to target homeowners seeking loans.

84. At the time of this filing and since June 30, 2023, MV Brokerage of Indiana has an expired Real Estate Broker License.

85. MV Brokerage of Indiana and Defendants are currently unable to legally sell a home for a commission in Indiana.

86. On August 23, 2023, Defendant Mitchell sent Plaintiff a response to a consumer complaint. In the response, Defendant Mitchell wrote: “MV stands ready to assist [consumer] in selling her home in the event that she, in her sole discretion, ever decides to do so.”

87. Defendant Mitchell signed the letter as President of MV Realty of Indiana, LLC.

88. Defendants are therefore unable to legally perform their agreed duties, even if ephemeral, pursuant to the HBAs they executed with Indiana consumers.

C. FACTS RELATED TO DOCUMENT EXECUTION PROCEDURES

89. In addition to the foregoing, MV Realty's document execution procedures failed to ensure that homeowners had a meaningful opportunity to review and understand the written terms of the agreement prior to execution.

90. To execute the HBA, MV Realty sent a third-party notary to meet the homeowner, typically at his or her home. MV Realty rarely provided a copy of the HBA prior to the appointment with a notary.

91. In response to Plaintiff's survey, seventy percent (70%) of respondents indicated that they were not offered time to review the documents prior to signing.

92. Further, at the notary signing, the Sales Agent tasked with executing the 40-year HBA was typically not present, and only available by phone to answer questions.

93. MV Realty's document execution procedures have caused consumer confusion because the terms hidden in the small type of the HBA materially differ from the simple deal that MV Realty represented to consumers in MV Realty's marketing and solicitation calls.

94. MV Realty fails to disclose critical contract terms in their communications with homeowners, rarely provides advance copies of the HBA, and engages in swift document execution, leaving consumers trapped by fine print and legalese that they had no real opportunity to read and understand.

D. FACTS RELATED TO MV REALTY'S ILLEGAL ROBOCALLING AND TELEMARKETING

95. MV Realty has boasted: “[t]he company’s Homeowner Benefit Program has grown from 7,778 contracts in 2021 to 32,000 as of August 2022” and that it “is on track to expand its portfolio to over 100,000 over the next 12 months.”

96. To meet these aggressive goals, MV Realty relied on their relentless illegal robocalling and telemarketing campaign.

97. MV Realty devised a robocalling and telemarketing scheme that targeted Hoosiers, including Hoosiers on the Indiana Do Not Call List and National Do Not Call Registry.

98. MV Realty's robocalls and telemarketing calls invaded Hoosiers' privacy and resulted in monetary losses to Hoosiers, including consumers.

99. MV Realty used telemarketing employees, called Transfer Specialists, that initiated or made outbound calls, left prerecorded voicemails, and/or sent text messages to Hoosiers.

100. MV Realty also used Indiana licensed real estate agents, “Sales Agents”, to initiate telephone solicitations to Hoosiers. Under this model, Sales Agents transformed into telemarketers, using their own cell phones and landlines to make outbound calls to leads that MV Realty required them to call.

101. If a consumer was interested in learning more and it was a call from a Transfer Specialist, the Transfer Specialist would transfer the Indiana consumer to an Indiana Sales Agent to complete the HBA sales process.

102. On several occasions, Indiana consumers complained about receiving robocalls and prerecorded voicemails to Sales Agents. At times, these Sales Agents would then bring up complaints during weekly meetings and trainings.

103. For many of these trainings and weekly meetings, Defendants Zachman and Manchester would be present.

104. Internally, MV Realty used Slack so that the Sales Agents, Transfer Specialists, other employees, and management, including Defendants Zachman, Mitchell, and Manchester, could communicate.

105. Upon information and belief, Defendants Zachman, Mitchell, and Manchester had the ability to view MV Realty Slack messages sent by MV Realty employees.

106. Broker Kenton Williams was in an Indiana-specific Slack channel with other Indiana Sales Agents.

107. In this Indiana-specific channel, Indiana Sales Agents would discuss issues, including issues with MV Realty's telemarketing.

108. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester were on notice and/or had knowledge that MV Realty's telemarketing programs were violating federal and state telephone privacy laws and/or consumer protection laws.

109. MV Realty's telemarketing program regarding Transfer Specialists was designed, managed, and implemented by Defendants Zachman, Mitchell, and Manchester.

110. MV Realty's telemarketing program regarding Indiana Sales Agents was designed, managed, and implemented by Zachman, Mitchell, and Manchester.

Transfer Specialists - Robocalls and Telemarketing

111. Defendants controlled the MV Realty telemarketing and robocalling operation from their headquarters in Florida. Defendants provided their employees with sales scripts and telephone numbers (leads) to call. Further, Defendants monitored and controlled the calls using a customer relations management (“CRM”) software platform.

112. Defendants used a third-party platform or platforms to initiate or make telephone solicitations, and to leave prerecorded messages on Hoosiers' voicemails.

113. Defendants made, initiated, or caused to be made or initiated telephone solicitations and/or telephone sales calls to Hoosiers on the Indiana Do Not Call List and National Do Not Call Registry.

114. Defendants made, initiated, or caused to be made or initiated telephone solicitations and/or telephone sales calls to Hoosiers on the Indiana Do Not Call List and National Do Not Call Registry.

115. Defendants made, initiated, or caused to be made or initiated telephone calls, including telephone solicitations, that left a prerecorded message on Hoosier's voicemails, including Hoosier's cell phones and/or residential lines.

116. Defendants provided false and misleading information to consumers about the Homeowner Benefit Program in both live calls and on prerecorded voicemail messages.

117. The Federal Communications Commission (“FCC”) investigated MV Realty’s use of PhoneBurner for telemarketing and robocalling. On January 24, 2023, the FCC ordered all U.S.-based voice service providers to prevent the transmission on their networks of suspected illegal robocall traffic from MV Realty using the PhoneBurner platform.⁵

118. The FCC concluded that MV Realty placed nearly 12 million calls to phone numbers listed on the National Do Not Call Registry.⁶

119. The FCC found:

- a. The calls were telephone solicitations;⁷
- b. Called homeowners “did not give consent to be called and did not have an established business relationship with MV Realty”;
- c. MV Realty “frequently called consumers who repeatedly and affirmatively asked MV Realty to stop calling them”;

⁵ Fed. Comm’n Comm’n, Public Notice: FCC Enforcement Bureau Notifies All U.S.-Based Providers of Apparently Illegal Robocall Traffic from PhoneBurner, Inc. and MV Realty PBC, LLC, File No. EB-TCD-22-00033721, pp. 2-3, <https://docs.fcc.gov/public/attachments/DA-23-65A1.pdf> (Jan. 24, 2023).

⁶ *Id.* at 4.

⁷ *Id.* at 2.

- d. MV Realty “[f]ailed to remove homeowners from its calling list despite being notified by MV Realty’s own employees” that those homeowners had asked to be removed; and
- e. “[T]hat 10,926,635 calls were placed to wireless numbers and 1,022,739 calls were placed to landline phone numbers actively listed on the DNC Registry.”⁸

120. Upon information and belief, MV Realty engaged in the same conduct in Indiana and with Hoosier homeowners.

121. Defendants purchased, gathered, and received leads from third parties.

122. Once Defendants obtained a lead, they aggressively telemarketed MV Realty’s Homeowner Benefit Program.

123. In several instances, Hoosiers asked to opt-out of MV Realty's telemarketing campaigns, only to continue being called by MV Realty.

124. Sales Agents notified Defendants during their weekly calls that MV Realty was recycling leads that were on MV Realty's internal do not call list.

125. Effectively, MV Realty did not have or follow an internal do not call procedure or policy, nor did MV Realty avoid calling Hoosiers on the Indiana Do Not Call List or the National Do Not Call Registry. Thus, Hoosiers had no effective way to stop or avoid receiving MV Realty's telemarketing calls.

⁸ *Id.* at 4.

126. PhoneBurner⁹ produced call detail records to Plaintiff. Based on these records:

- a. MV Realty made or initiated approximately 29,478 telephone solicitations to telephone numbers with an Indiana area code;
- b. MV Realty left approximately 17,288 prerecorded voicemails on telephones that had an Indiana area code;
- c. MV Realty made or initiated approximately 3,121 telephone sales calls to Hoosiers on the Indiana Do Not Call List;
- d. MV Realty made or initiated approximately 1912 telephone sales calls that left a prerecorded voicemail to Hoosiers on the Indiana Do Not Call List;
- e. MV Realty made or initiated approximately 12,483 telephone solicitations to Hoosiers on the National Do Not Call Registry; and
- f. MV Realty made or initiated approximately 8,157 telephone solicitations that left a prerecorded voicemail to Hoosiers on National Do Not Call Registry.

⁹ The data produced by PhoneBurner is a conservative estimate of calls initiated by or on behalf of MV Realty. Plaintiff has not obtained complete call records from PhoneBurner, MV Realty's Sales Agents, who used their personal phones, and from MV Realty's telemarketing vendors, who also initiated telephone solicitations on behalf of MV Realty.

127. MV Realty produced to Plaintiff a set of leads that were purchased from various sources, including but not limited to, PX Inc. and the Wisdom Co.

128. The price per lead ranged from \$0.05 to \$2.

129. Upon information and belief, MV Realty did not have the requisite consent to call its leads and/or does not possess the requisite proof consent.

130. In a contract with PX Inc., MV Realty agreed to following language:

Consumer information may not have been collected from Consumers who have provided “prior express written consent” as required under the TCPA and/or Do Not Call List requirements and any applicable rules, regulations or guidelines. As a result, PX does not make any claim, representation or assertion that Client, or any third party, may: (a) call any telephone or mobile phone numbers contained within any Lead, without first scrubbing against the National Do-Not-Call-Registry; and/or (b) call any telephone or mobile phone numbers contained within any Lead through the use of an automatic telephone dialing system, pre-recorded or artificial voice message, or text message, without first separately obtaining prior express written consent from each such Consumer, as required under the TCPA.

131. In a contract with Wisdom Co., MV Realty agreed to be solely responsible for compliance with all federal and state laws, including the TCPA and all regulations regarding the National Do Not Call Registry. MV Realty agreed to take on all the risk that the leads purchased were not compliant with the TCPA.

132. MV Realty provided Plaintiff with records of 77,901 third-party leads (“MV Realty Lead List”) related to Indiana consumers.

133. The MV Realty Lead List had total of 64,035 unique phone numbers.

134. Each lead contained a phone number, resident name, and address.

135. MV Realty provided Plaintiff with an internal do not call list (“MV Realty Internal Do Not Call List”) that contained 1,644 entries.

136. Of these 1,644 entries, six phone numbers were on the list twice.

137. Of these 1,644 entries, 140 entries included a date and time the person's phone number was added to the MV Realty Internal Do Not Call List.

138. Approximately 12,881 phone numbers on MV Realty Lead List were on the Indiana Do Not Call List.

Approximately 29,996 phone numbers on the MV Realty Lead List were on the National Do Not Call Registry.

139. Approximately 344 phone numbers on the MV Realty Internal Do Not Call List were on the Indiana Do Not Call List.

140. Approximately 988 phone numbers on the MV Realty Internal Do Not Call List were on National Do Not Call Registry.

141. Approximately 34 phone numbers on the MV Realty Customer List were on the Indiana Do Not Call List.

142. Approximately 135 phone numbers on the MV Realty Customer List were on the National Do Not Call Registry.

143. Approximately 578 phone numbers on the MV Realty Lead List were on the MV Realty Internal Do Not Call List.

144. Approximately 5 phone numbers on the MV Realty Customer List were on the MV Realty Internal Do Not Call List.

145. Approximately 82 phone numbers on the MV Realty Lead List were on the MV Realty Customer List.

146. Upon information and belief, MV Realty used caller IDs with Indiana area codes so that they could match the area codes with the called party.

147. This practice is called neighborhood spoofing, and it is intended to trick the call recipient into thinking the call is coming from a fellow Hoosier compared to a company based in Florida.

148. The Transfer Specialists' calls and voicemails were telephone solicitations and/or telephone sales calls.

149. To initiate or make outbound telephone calls, a Transfer Specialist would use MV Realty's CRM platform.

150. Once a Transfer Specialist was ready to initiate or make a telephone call, the platform would select the phone number to call and then dial the phone number.

151. If a consumer would answer the phone call, the Transfer Specialist would then follow a script provided by MV Realty.

152. If the call went to voicemail, the Transfer Specialist would click a button to leave a prerecorded voicemail.

153. An example of a prerecorded voicemail was¹⁰:

¹⁰ *Actual audio of a Realty Scam exploiting the MV Realty Brand captured by YouMail Inc.*, YouTube (Feb. 6, 2023), <https://www.youtube.com/watch?v=O5oq7AdFw7c>. See also *704-368-0726*, YouMail, <https://directory.youmail.com/phone/704-368-0726> (last visited July 6, 2023).

Hi, this is Amanda with MV Realty. We're offering cash homeowners as a part of our homeowner benefit program you can receive up to \$5000 without selling your home or paying us back. For more details and to find out how much money you can get please call us back or dial 866-770-8587.

154. When a prerecorded voicemail was left, the call would end for the Transfer Specialist. MV Realty's system, on its own or in combination with a third-party, would then leave the prerecorded voicemail on the consumer's voicemail. Simultaneously, the system would begin calling the next lead.

155. Upon information and belief, the prerecorded voicemail above and other voicemails were recorded by Defendant Zachman.

156. If a consumer answered the phone, MV Realty trained its Transfer Specialists to use calling scripts.

157. MV Realty's Script 1 read:

Script 1

"Hi (Homeowner Name)?" [Pause]

"It's _____ with MV! I am reaching out to homeowners here in (City) because my company is offering on average \$400-\$1,000 dollars that you would never have to pay back.

To make sure I'm not wasting your time, are you still a homeowner here in (City)?" [Pause]

Great! (Homeowner Name), what we would ask is that IF you ever decide to sell your home in the future that you give our company the first right to list your home.

The great thing is that if you choose to never sell your home, then you get to keep the money regardless. Does that make sense?" [Pause]

"Great! In less than 2 minutes, I will have one of my agents give you the exact amount we can offer you.
You will hear the phone ring. while I get an agent on the line with us. Hold on.

158. Script 2 read:

Script 2

"Hello (Homeowner Name)?" **[Pause]**

"Hi (Homeowner Name), my name is _____ with the Homeowner Benefit Program! The reason for my call today, is that my company offers homeowners, like yourself, anywhere on average \$400-\$1,000 dollars in hopes of creating future business.

Just to confirm, are you still a homeowner here in (City)?" **[Pause]**

"Great! Now (Homeowner Name), this is not a loan - so we don't ask that you pay us back. We simply offer money in exchange for you to use our company; if you ever decide to sell your home in the future.

If you choose to never sell your home, then you still get to keep the money, as you are under no obligation to ever sell. Does that make sense?" **[Pause]**

"Great! In less than 2 minutes, I will have one of my agents give you the exact amount we can offer you for us to be your future real estate brokerage.
I am going to bring the agent on the line with us now.

159. Script 3 read:

Script 3

"Hello (Homeowner)?" **[Pause]**

"This is _____ with the Homeowner Benefit Program. The reason for the call is that you qualify for our Homeowner Benefit Program, where we pay homeowners on average \$400-\$1,000 dollars.

Just to confirm, are you still a homeowner here in (City)?" **[Pause]**

"Excellent! (Homeowner), to be more specific, we will pay you for us to be your future realtor. To be clear, this is not a loan, so we would never ask for you to pay us back, and you're not required to ever sell your home.

All we ask is that IF you ever decide that you need a realtor in the future that you choose to work with us. And for this opportunity, we will pay you for this opportunity. Does that make sense?" **[Pause]**

"Great! In less than 2 minutes, I will have one of my agents give you the exact amount we can offer you today.
You will hear the phone ring, but know that I will be on the phone with you the entire time. Hold on.

160. In all the scripts, MV Realty instructed its Transfer Specialists to tell the called person that he or she was not going to be asked to pay MV Realty back.

161. This is a clear misrepresentation of the HBA program.

162. Further, all the scripts omitted material provisions of the HBA.

163. As an example, these omissions included, but are not limited to, that the HBA would create a lien on their property, that the HBA was a 40-year contract, and that there would be a strictly enforced and large cancellation fee.

164. In Scripts 2 and 3, MV Realty instructed its Transfer Specialists not to use the name of the company.

165. In training sessions, MV Realty instructed Transfer Specialists to say they were calling from the Homeowner Benefit Program.

166. This is a clear violation of the TSR and Indiana law, as the Homeowner Benefit Program was not the name of the entity making the telemarketing call.

167. Further, MV Realty and its employees made a false representation and/or implication as to the identity of the entity making the telephone solicitation.

168. In other trainings and documents, MV Realty instructed its employees on how to respond to the most common questions. MV Realty called these questions and/or comments “objections.”

169. These objections included misrepresentations or omitted material provisions of the HBA.

170. One common objection and response was:

Put Me On the Do Not Call List (DNC) – (During the Introduction)

"I am calling homeowners here in (City) because my company is offering homeowners on average \$400-\$1,000 dollars for the first rights to list your property should you ever decide to sell your home.

[I am but put me on your Do Not Call List.]

"(Homeowner), before I do that I am offering money that is not in a form of a loan, and you never have to pay it back. To make sure I'm not wasting your time, are you still a homeowner here in (City)?" **[Pause]**

[What's the catch?]

[Continue On With Your Script...] "What we would ask is that IF you ever decide to sell your home in the future that you give our company the first right to list your home..." If you choose to never sell your home, that's okay.

171. MV Realty verbally instructed and trained Transfer Specialists to continue their pitch to call recipients that wanted put on MV Realty's Do Not Call list or did not want to be called.

172. Another common objection and response script was:

I've already spoken to someone and will not do business with a company that places a lien on my home"

[I don't want to do business who puts lien on property]

Homeowner, I can understand your concern; but it's not a lien like your mortgage. Our company files a memorandum so that if you do decide to sell with someone else, we are reported to remind you that we have an agreement.

173. And:

I don't want a lien on my house

[I do not want a lien on my house.]

Homeowner, we do not file a lien, we file a memorandum. The purpose of the memorandum is to serve public notice of the homeowner's obligations which means duty/obligation is that you simply use MV Realty in a future sale.

174. These are misrepresentations of the nature of the HBA and how the filed "memorandum" operates under Indiana law.

175. Transfer Specialists were required to make between 60 and 70 calls an hour, and up to 400 to 450 calls per day. Transfer Specialists also were required to hit a goal of a ten percent transfer rate for all answered calls.

176. Upon information and belief, MV Realty hired third-party telemarketers that initiated or made telephone calls that played a prerecorded message or used an artificial voice on behalf and to the benefit of MV Realty.

177. MV Realty sent, made, or initiated text messages to Hoosiers.

178. At this time, Plaintiff does not know how many texts were sent to Hoosiers, including Hoosiers on the Indiana Do Not Call List and the National Do Not Call Registry.

179. The text messages produced by MV Realty are indicative of MV Realty's aggressive, deceptive, and abusive sales strategy.

180. Some of the texts included but were not limited to:

Own a home? Receive up to \$5000 cash today without selling. Find out how much you can get: {SENDER_PHONE}
Our Homeowner Benefit Program can pay you up to \$5000, without selling your home. Find out how much you can get:{SENDER_PHONE}
Hi, this is Amanda. We pay homeowners for the opportunity to list their home if they ever decide to sell. Clients never need to sell or pay it back. Reach us at {SENDER_PHONE} to find out how much you qualify for.
Hi, it's Amanda from the Homeowner Benefit Program. We pay homeowners for agreeing to use MV Realty if they decide to sell their home in the future. Reach us at {SENDER_PHONE} to find out how much you qualify for.
We want to sign you up for the Homeowner Benefit program - where the Agent pays you. {SENDER_PHONE} to find out more.
Get paid today without selling your home. Call {SENDER_PHONE} to find out how much you can get.
Receive a check from the Homeowner Benefit program today - no need to sell. Call {SENDER_PHONE} to learn more.

Indiana Real Estate Agents - Telemarketing

181. MV Realty employed licensed real estate agents as Sales Agents.

182. The Sales Agents' job was to sell HBAs through telemarketing.

183. This telemarketing included inbound and outbound calling using the Sales Agent's personal phone.

184. At this time, Plaintiff does not have access to the Sales Agents' phone records, as the Sales Agents used their personal phones. Thus, there are likely far more Hoosiers on the Indiana Do Not Call List and National Do Not Call Registry that were called by Defendants.

185. MV Realty trained their Sales Agents in telemarketing the HBAs.

186. MV Realty did not train their Sales Agents in how to sell the homes of those clients that had an HBA.

187. For an example, below is a MV Realty new agent training schedule:

New Agent Orientation Agenda				
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<ul style="list-style-type: none"> • Trinet • Understanding the draw • HBA-overview, key terms • Call Scripts • Inbound Calls • Underwriting • Quiz 	<ul style="list-style-type: none"> • Valuations • CRM Basics: Part 1 • Payments • Mock Calls & Obj. Handling • Appt. & Notary Mngmt. • Quiz 	<ul style="list-style-type: none"> • CRM basics Part 2 • Live Lead Claim • A Day in the Life • Transaction Coordinators • Quiz 	<ul style="list-style-type: none"> • Wrap up/set expectations • CRM • Live lead claim • Inbounds • Mock call • Quiz 	<ul style="list-style-type: none"> • Dotloop • Meet Your ASM's • Joe's intro • Q&A • Final test

188. The Sales Agents were required to claim a minimum of 30 leads per day, and 150 leads per week.

189. To claim a lead, the Sales Agent would use MV Realty's CRM platform. The platform would identify a lead to call, and the Sales Agent would cold call the lead. During this process, the Sales Agent would input information about the call into the CRM platform.

190. Sales Agents had to receive at least 15 inbound calls per week. Inbound calls were those calls that a Transfer Specialist transferred to a Sales Agent.

191. When a Transfer Specialist transferred an Indiana inbound call, every Indiana Sales Agent's phone would ring. The first person to answer the call would claim the inbound lead.

192. At some point in July or August of 2022, MV Realty increased the number of inbound calls to eight per day. Ex. A at 48:8-16.

193. Further, the Sales Agent had to have two HBA appointments per week, which is where the HBA sales process would be closed.

194. Mr. Schneider testified he did not like inbound calls because, among other things, “we would start our spiel, and these people had no idea what or why they were being called.” *Id.* at 51:1-15.

195. Further, Mr. Schneider stated: “One gentleman . . . He said he got a call, left a voicemail to call back, something about a prize, and then he called back. And then he was routed to me because we live in Indiana.” *Id.* at 52:2-17.

196. Mr. Schneider received transferred calls where the Indiana resident thought the MV Realty calls were related to a government program. *Id.* at 52:18-25.

197. MV Realty provided their Sales Agents with a script for dealing with inbound calls from Transfer Specialists:

Inbound Transfer Specialist Script

Inbound Calls have their own SPECIFIC script to follow:

Agent: Hi, this is (Agents Name) with the Homeowner Benefit Program; I'm excited to tell you how much I can offer you today! What is your home address?

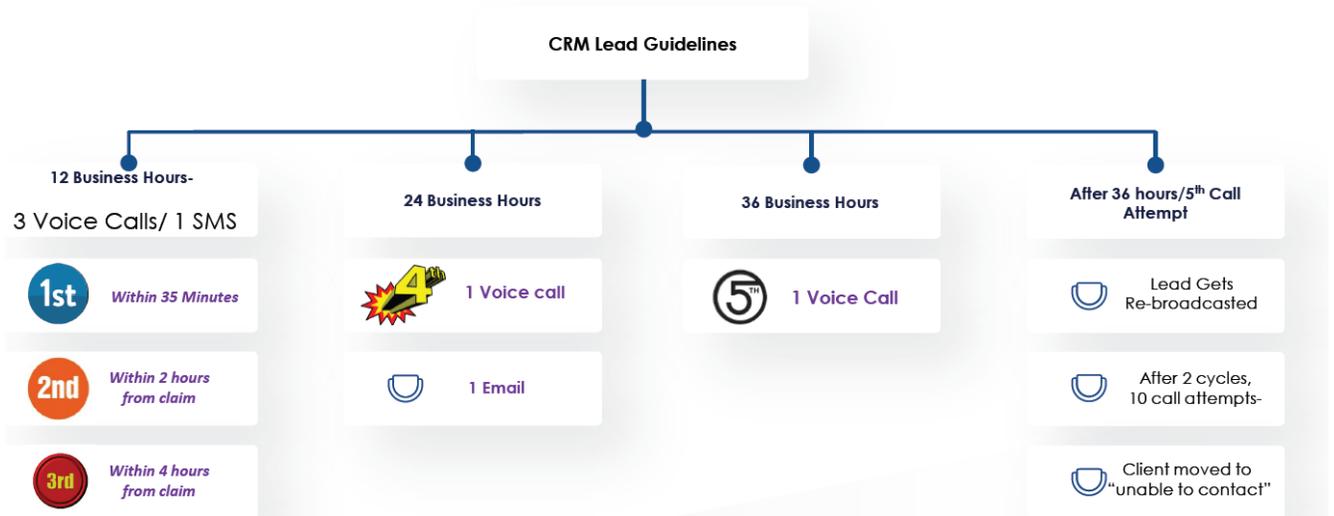
Inbound calls that come from Appointment Setters have had the benefit of hearing about our program. The appointment setter has already provided the homeowner with an overview of the HBA so, your introduction in the call should ALWAYS be as stated above.

AFTER you've provided the homeowner with the offer amount, you can then proceed with answering questions, explaining more details about the program and creating an appointment.



198. When making outbound calls, Sales Agents had to claim the lead in MV Realty's CRM platform. After a Sales Agent claimed a lead, MV Realty had a specific workflow the agent would have to follow. The purpose of this workflow was to follow up with the Hoosier until an HBA sale was made. This was the workflow:

CRM – CONTACT WORKFLOW ACTIVITY & GUIDELINES



199. And:

CRM – Contact Workflow Activity & Guidelines



Condition Period Business Day (M-F)	Activities Required	Special Provisions Business Rules
12 Business Hours	3 Voice Calls & 1 SMS <i>1st Call: Within 35 Minutes</i> <i>2nd Call: Within 2 hours from claim (scheduled 1 hour after initial call)</i> <i>3rd Call: Within 4 hours from claim (scheduled 1 hour after second call)</i>	<ul style="list-style-type: none"> Initial client contact must be within 35 minute timer. Non-contact (Initial Only) triggers 30 minute penalty box event delay for agent new claims. Client is rebroadcasted into unassigned status queue for new agent to claim if any call is not completed by scheduled time. Omission of 2nd and 3rd call attempts or SMS results in loss of client for rebroadcast.
24 Business Hours	1 Voice Call & 1 Email	<ul style="list-style-type: none"> Omission of 4th call attempt AND email results in loss of client for agent reassignment.
36 Business Hours	1 Voice Call	<ul style="list-style-type: none"> Omission of 5th call attempt results in loss of client for rebroadcast.

- Rules only apply to leads never contacted.
- Contact attempts MUST be entered in CRM, or the system assumes not completed.
- Push notification reminder sent 1 hour before rebroadcast trigger.
- Non contact at end of 3 day cycle triggers automatic system rebroadcast.
- After 2 cycles, 10 call attempts the client status moves to unassigned – "Unable to Contact"

200. Even when the first call did not work, MV Realty trained their Sales Agents to continue calling:

**Don't take rejection personally
and, more importantly,
don't let it STOP you from making the calls!**

**Sales Statistics
you should know!**

- In 2007 it took 3.68 cold call attempts to reach a prospect. Today, it takes EIGHT (8) attempts.
- 80% of sales require FIVE (5) follow up calls, whereas 44% of salespeople give up after ONE (1) follow up call.
- 42% of people would be encouraged to make a purchase if the sales rep called back at an agreed-upon, specified time.
- 60% of customers say "no" FOUR (4) times before saying "yes."



201. Effectively, MV Realty required its employees to continue bothering Hoosiers, and Hoosiers on the Indiana Do Not Call List and National Do Not Call Registry, over and over until MV Realty sold an HBA.

202. If a Sales Agent followed MV Realty's instruction, the call recipient would receive up to five telephone solicitations and/or telephone sales calls before being put back in the marketing funnel.

203. Thus, the total number of telephone calls made to Hoosiers on the Indiana Do Not Call List and the National Do Not Call Registry could be multiples more than indicated above.

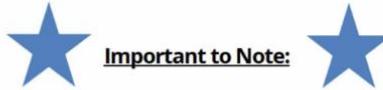
204. Further, MV Realty trained their Sales Agents on how many calls the most successful sellers make:

How many calls are my *SUCCESSFUL* TEAMMATES making in a week?

Agent Summary Snapshot

Agent Age	Brokerage	Agent	Day of Agent Start Dt	Claims	Call Attempts	Appt. Created	Net Appts. Created	Signing	Signin Rat
Agent 30-60	MVR - NJ	Gregory Caputo	12/6/21	245	399	14	10	8	80.0%
Agent 90+	MVR - NC	Darryl Cook	8/19/20	166	292	16	16	9	56.3%
	MVR - NJ	Kari Phillips	7/8/20	151	265	6	6	4	66.7%

This is a TRUE Snap Shot Taken from the week of January 17th, 2022.



Important to Note:

The success of these agents is not based on ONE (1) week of outbound calls. It is the compound effect of *CONSISTENTLY* making this amount of calls on a weekly basis.

205. Internally, this was called “smiling and dialing.” *Id.* at 172:1-7.

206. During the weekly meetings with the Sales Agents, MV Realty trainers “would list who did the most that week, and then anybody who got four of them [HBAs] or above, they were mentioned by name.” *Id.* at 186:9-17.

207. Despite all this pressure to make sales, MV Realty's Sales Agents were instructed not to sell HBAs to friends and family. MV Realty's CRM training guide specifically stated:

13. How to Add a Personal Lead

- On occasion, you may have someone you’re acquainted with from your community who expresses interest in signing up for the HBA program. You can enter these leads into the CRM as **PERSONAL LEADS**. Any lead entered as a personal lead will remain assigned to you during your tenure. Keep in mind, you will want to consider very carefully whether you want to sign up close friends or family members for the HBA program as you may no longer be working at MV Realty at the time those contacts are ready to sell as MV Realty is willing to wait up to 40 years for the opportunity to work with them, per our HBA agreement. **We do NOT recommend signing up close friends and family members for the HBA program as you’d likely earn more representing those parties as their real estate agent than you would on the deal as an HBA agent.**
 - **Step 1:** Click on the **AGENT** tab, then click on the **LEADS** tab.
 - **Step 2:** Scroll to the bottom of the **LEADS** page and click **ADD LEAD**.

208. MV Realty provided Sales Agents with calling scripts.

209. For example:

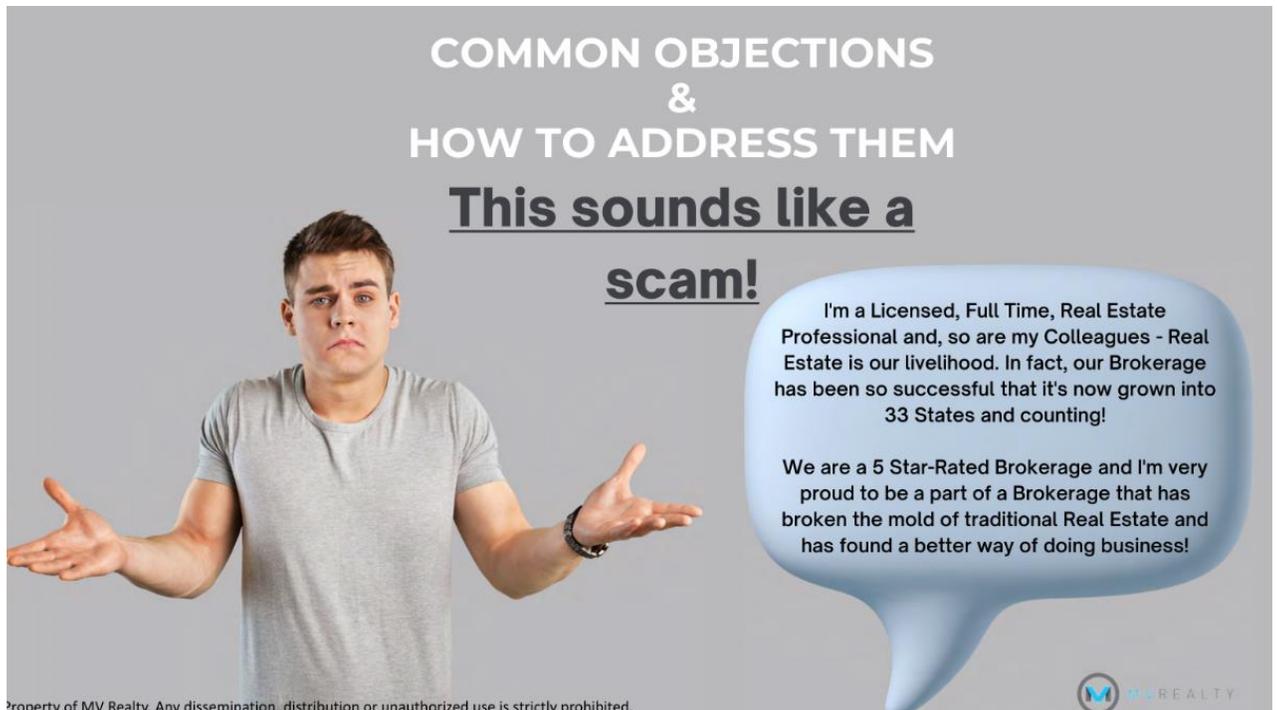


210. Regarding outbound calls, Mr. Schneider stated: "Most people see the call, so they don't answer, so I leave a short message like this is Todd with the Homeowner Benefit Program, blah, blah, blah." *Id.* at 54:1-5.

211. It is a violation of the TSR and Indiana state law to not include the name of the business in telemarketing and/or telephone sales calls. Homeowner Benefit Program is not the name of MV Realty.

212. Again, MV Realty and its employees made a false representation and/or implication as to the identity of the entity making the telephone solicitation.

213. Further, MV Realty trained the Sales Agents on common questions (objections) and provided sample responses. For example:



214. When asked how often call recipients said this sounds like a scam, Mr. Schneider stated: “Not all of them obviously, but many of them did say this sounds like a scam.” *Id.* at 154:3-6.

215. Further, MV Realty did not want their Sales Agents to use the word “lien” when discussing the HBA, and they were instructed to say “memorandum.” *Id.* at 174:6-21.

216. Sales Agents were instructed to ask their customers for referrals.

217. Upon information and belief, Sales Agents would initiate or make outbound telephone solicitations and/or telephone sales calls to these referred consumers.

MV Realty's Do Not Call Policy

218. Defendants were not registered to receive the Indiana Do Not Call List.

219. Defendants were not registered as a telephone solicitor with the Consumer Protection Division of the Office of the Attorney General.

220. MV Realty had an internal do not call policy (“Policy”).

221. According to the Policy, consumers were directed to contact Defendant Manchester with questions or concerns.

222. Despite these policies, MV Realty made or initiated calls to Hoosiers who asked MV Realty not to be call them and Hoosiers on the National Do Not Call Registry and the Indiana Do Not Call List.

223. Further, Transfer Specialists were instructed to continue the telephone solicitation when Hoosiers asked to be placed on MV Realty's internal do not call list.

224. In a compliance document, MV Realty stated: “Management is routinely informed of and overseas (sic) the Internal Do Not Call list and its adherence.”

225. Depending on how the Sales Agents entered or did not enter information into the CRM when claiming a lead, consumers could become trapped in a never-ending cycle of MV Realty calls.

226. For example, Mr. Schneider stated:

[T]ere was one lady that I spoke with in approximately the August or September time frame. I guess I accepted her out of the CRM, and then made the call, then sent the text. And then, I don't know, I got sidetracked or whatever, and then she got cycled back in because I didn't fulfill my thing of saying, hey, I reached out again through the CRM. Because that's the only way I have to self report. So I didn't do that, she got cycled back in, somebody picked her up again and called her, and then they didn't do what they were supposed to do, and then she get cycled again. And I think she talked to four

different people that called her that day whenever I got a hold of her. And I think I was like the fourth one on the same day, and I said that's next to impossible. I said that's not possible, and I apologized. But she says please don't call me. I put her on the DNC list. And then I made an inquiry on the Monday meeting, and they said on the Monday meeting that -- they explained how that can happen because you didn't disposition properly. In other words, you didn't click on it and say, hey, I made contact, you didn't follow-up, so she cycled back into the system and kept going, and somebody didn't follow-up and didn't -- you know.

Id. at 148:13-149:14

D. INDIVIDUAL LIABILITY OF DEFENDANTS ZACHMAN, MITCHELL, AND MANCHESTER

227. Defendants Zachman, Mitchell, and Manchester are also individually liable for the conduct alleged herein.

228. Defendants Zachman, Mitchell, and Manchester, as officers of MV Realty, possessed and exercised the authority to control the policies and trade practices of MV Realty; were responsible for creating and implementing the illegal policies and trade practices of MV Realty that are described herein; participated in the illegal trade practices that are described herein; directed or supervised those employees of MV Realty who participated in the illegal trade practices that are described herein; and knew or should have known of the illegality of the trade practices that are described herein and had the power to stop them, but rather than stopping them, promoted their use.

229. Defendants Zachman, Mitchell, and Manchester controlled the illegal conduct of MV Realty and is vicariously liable for its conduct.

230. Defendants Zachman, Mitchell, and Manchester operated through MV Realty, and their conduct was one and the same.

231. Defendants Zachman, Mitchell, and Manchester' conduct through MV Realty has caused harm to consumers.

232. Treating MV Realty and Defendants Zachman, Mitchell, and Manchester as separate entities would further sanction a fraud, promote injustice, and lead to an evasion of legal obligations.

233. Defendants Zachman, Mitchell, and Manchester are liable for the illegal conduct alleged herein because they directly participated in the conduct, authorized and directed others who committed the illegal conduct with knowledge of its illegality, and in the case of Defendants Zachman, Mitchell, and Manchester, because he/she controlled the illegal conduct of MV Realty and acted through his/her company to harm others.

COUNT I

Violations of the TCPA – 47 U.S.C. §§ 227(b)(1)(A)(iii) and (b)(1)(B)
(Prerecorded Calls to Cellular and Residential Telephone Lines)
(As to all Defendants)

234. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

235. In enacting the TCPA, Congress determined that unwanted prerecorded voice message calls were a greater nuisance and invasion of privacy than live calls and that such calls delivered to wireless phones can be costly.¹¹

236. The TCPA prohibits any person within the United States, or any person outside the United States if the recipient is within the United States, from making any call using an artificial or prerecorded voice to any cellular telephone, with exceptions for certain emergency calls or calls placed with the prior express consent of the called party. 47 U.S.C. § 227(b)(1)(A)(iii).

237. The TCPA prohibits any person within the United States, or any person outside the United States if the recipient is within the country, from initiating any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes, or is exempted by rule or order of the FCC. 47 U.S.C. § 227(b)(1)(B)

238. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester violated 47 C.F.R. § 64.1200(a)(1)(iii) and 47 U.S.C. § 227(b)(1)(A)(iii) by engaging in a pattern or practice of initiating or making telephone calls to cellular

¹¹ Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, Report and Order, 18 FCC Rcd. 14014, 14115, para. 165 (2003) (2003 TCPA Order).

telephone lines using artificial or prerecorded voices to deliver a message without the prior express consent of the called party and where the call was not initiated or made for emergency purposes or exempted by rule or order of the Federal Communications Commission under 47 U.S.C. § 227(b)(2)(B).

239. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester violated 47 C.F.R. § 64.1200(a)(2) by engaging in a pattern or practice of initiating telephone solicitations to cellular telephone lines in Indiana using artificial or prerecorded voices to deliver a message advertising MV Realty's products and services without the prior express written consent of the called party.

240. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester violated 47 C.F.R. § 64.1200(a)(3) and 47 U.S.C. § 227(b)(1)(B) by engaging in a pattern or practice of initiating telephone calls to residential telephone lines of Indiana residents using artificial or prerecorded voices to deliver a message without the prior express written consent of the called party and where the call was not initiated for emergency purposes or exempted by rule or order of the Federal Communications Commission under 47 U.S.C. § 227(b)(2)(B).

241. A telephone solicitation means “the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.” 47 C.F.R. § 64.1200(f)(15g).

242. Defendants' telephone calls were telephone solicitations.

243. Defendants' HBA is a good or service.

244. The violative calls include, but are not limited to, prerecorded voicemails left on Indiana consumers' residential lines and/or cellular phones by MV Transfer Specialists.

245. Upon information and belief, Defendants made or initiated approximately 17,288 violative calls to Indiana residents.

246. It is believed and averred that Defendants made and/or participated in additional calls that violated the TCPA; the numbers, dates, and times of said calls are known to Defendants, but are not known to Plaintiff at this time.

247. Plaintiff asserts that Defendants may have committed additional violations of the TCPA arising from their participation in these additional calls.

248. Defendants' violations were direct and/or vicarious violations.

249. Defendants' violations were willful and knowing.

COUNT II

Violations of the TCPA – 47 U.S.C. §§ 227(c) and 47 C.F.R. § 64.1200(c)(2)
(Calls to Telephone Numbers on the National Do Not Call Registry)
(As to all Defendants)

250. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

251. The TCPA recognized that there is a need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. 47 U.S.C. § 227(c)(1). To meet this directive, a single national

database of telephone numbers was compiled of residential subscribers who objected to receiving telephone solicitations. *See* 47 U.S.C. § 227(c)(3).

252. Pursuant to 47 C.F.R. § 64.1200(c)(2), all persons and entities are prohibited from initiating any telephone solicitation to a residential telephone subscriber who has registered his or her telephone number on the National Do Not Call Registry, which registrations must be honored indefinitely, or until the registration is cancelled by the consumer.

253. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester violated 47 C.F.R. § 64.1200(c)(2) and 47 U.S.C. § 227(c) by engaging in a pattern or practice of initiating telephone solicitations to residential telephone subscribers in Indiana whose telephone numbers were listed on the National Do Not Call Registry.

254. The violative calls include but are not limited to the telephone solicitations initiated by Transfer Specialists and Sales Agents to Indiana consumers on the National Do Not Call Registry.

255. Upon information and belief, Defendants made or initiated approximately 12,483 violative calls to Indiana residents through PhoneBurner.

256. Upon information and belief, Defendants made or initiated at least one telephone solicitation to Indiana residents on the MV Realty Lead List.

257. Upon information and belief, Defendants made or initiated approximately 29,996 telephone solicitations to Indiana residents on the MV Realty Lead List that were on the National Do Not Call Registry.

258. In total, Defendants made or initiated approximately 42,479 violative calls.

259. It is believed and averred that Defendants made and/or participated in additional calls that violated the TCPA; the numbers, dates, and times of said calls are known to Defendants, but are not known to Plaintiff at this time.

260. Plaintiff asserts that Defendants may have committed additional violations of the TCPA arising from their participation in these additional calls.

261. Defendants' violations were direct and/or vicarious violations.

262. Defendants' violations were willful and knowing.

COUNT III
Violations of the Telemarketing Sales Rule
16 C.F.R. §§ 310.3-310.4
(As to all Defendants)

263. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

264. Pursuant to the Telemarketing Act, Congress directed the FTC to enact rules prohibiting abusive and deceptive telemarketing acts or practices. 15 U.S.C. § 6102(a)(1). In response, the FTC adopted the TSR, 16 C.F.R. § 310 *et seq.*

265. The TSR prohibits abusive and deceptive acts or practices by sellers or telemarketers and, under 16 C.F.R. § 310.3(b), further prohibits persons from

providing substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates the TSR.

266. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester are “sellers” and/or “telemarketers,” within the meanings of 16 C.F.R. § 310.2(dd) and 16 C.F.R. § 310.2(ff)

267. Many of Defendants' telephone calls to Indiana residents were “telemarketing,” within the meaning of 16 C.F.R. § 310.2(gg),

268. These telephone calls included calls from Transfer Specialists and Sales Agents.

269. Defendants' HBA is a good or service.

270. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester violated the TSR either directly, or Defendants provided substantial assistance or support to sellers and telemarketers that were violating the TSR in contravention of 16 C.F.R. § 310.3(b) when Defendants knew or consciously avoided knowing that the seller or telemarketer is engaged in any act or practice that violates the TSR.

271. Defendants' violations of the TSR include:

- a. Misrepresented material restrictions, limitations, or conditions to purchase, receive, or use goods or services, in violation of 16 C.F.R. § 310.3(a)(2)(ii);
- b. Misrepresented material aspects of goods or services, in violation of 16 C.F.R. § 310.3(a)(2)(iii);
- c. Misrepresented material aspects of the nature or terms of the Defendants' refund, cancellation, exchange, or repurchase policies, in violations of 16 C.F.R. § 310.3(a)(2)(iv);
- d. Made false or misleading statements to induce any person to pay for goods or services, in violation of 16 C.F.R. § 310.3(a)(4);
- e. Initiated or caused the initiation of outbound calls to telephone numbers of Indiana residents where the person has stated to Defendants that he or she does not wish to receive an outbound telephone call by Defendants, in violation of 16 C.F.R. § 310.4(b)(1)(iii)(A);
- f. Initiated or caused the initiation of outbound calls to telephone numbers on the National Do Not Call Registry, in violation of 16 C.F.R. § 310.4(b)(1)(iii)(B);
- g. Initiated or caused the initiation of outbound telephone calls that delivered prerecorded messages, in violation of 16 C.F.R. § 310.4(b)(1)(v);

- h. Failed to disclose the identity of the seller of the goods or services truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call, in violation of 16 C.F.R. § 310.4(d)(1);
- i. Failed to disclose the purpose of the call was to sell goods or services, in violation of 16 C.F.R. § 310.4(d)(2); and/or
- j. Failed to disclose the nature of the goods or services, in violation of 16 C.F.R. § 310.4(d)(3).

272. Upon information and belief, Defendants made and/or assisted and facilitated at least one telemarketing call that violated the TSR to the 64,035 unique phone numbers on the MV Realty Lead List.

273. Upon information and belief, Defendants made and/or assisted and facilitated in the making of 29,478 violative telemarketing calls to Indiana residents through PhoneBurner.

274. In total, Defendants made and/or assisted and facilitated in the making of approximately 93,513 violative calls.

275. Further, these approximately 93,513 calls include approximately 42,479 violative calls to Indiana residents on the National Do Not Call Registry.

276. It is believed and averred that Defendants made and/or participated in additional calls that violated the TSR; the numbers, dates, and times of said calls are known to Defendants, but are not known to Plaintiff at this time.

277. Plaintiff asserts that Defendants may have committed additional violations of the TSR arising from their participation in these additional calls.

COUNT IV
Violations of the Telephone Solicitation of Consumers Act (“TSCA”)
Ind. Code 24-4.7
(As to all Defendants)

278. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

279. The Telephone Solicitation of Consumers Act (“TSCA”) prohibits certain persons and entities from making, causing to make, or assisting and facilitating in the making of telephone sales calls to Hoosiers on the Indiana Do Not Call List.

280. Pursuant to Ind. Code § 24-4.7-3-1, the Office of the Attorney General quarterly publishes a no telephone sales solicitation listing (“the Indiana Do Not Call List”). Consumers place their telephone numbers on the Indiana Do Not Call List when they do not want to receive telephone calls soliciting the sale of a consumer good or service, as defined in Ind. Code § 24-4.7-2-3.

281. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester violated the TSCA when Defendants made, caused to be made, or assisted and facilitated in the making of telephone sales calls to Indiana consumers on the Indiana Do Not Call List and/or when Defendants made, caused to be made, or assisted and facilitated in the making of telephone sales calls where the solicitor did not use business name or the first and last name of the solicitor.

282. The telephone calls described above were telephone sales calls because they were made to solicit the sale of a consumer good or service or to obtain information to be used to solicit the sale of a consumer good or service including, without limitation, the HBA.

283. By making or causing to be made telephone sales calls to consumers residing in Indiana, Defendants are “doing business in Indiana,” within the meaning of Ind. Code § 24-4.7-2-5, regardless of where the telephone calls originated or where Defendants are located.

284. By contacting or attempting to contact subscribers in Indiana by telephone, Defendants are “callers,” within the meaning of Ind. Code § 24-4.7-2-1.7. By doing business in Indiana, Defendants are “telephone solicitors,” within the meaning of Ind. Code § 24-4.7-2-10.

285. By regularly engaging in or soliciting consumer transactions, whether or not Defendants deal directly with consumers, Defendants are “suppliers,” within the meaning of Ind. Code § 24-4.7-2-7.7 and § 24-5-0.5-2.

286. The Indiana residents who were called were “consumers,” within the meaning of Ind. Code § 24-4.7-2-2.

287. Many of the telephone sales calls were made to telephone numbers included on Indiana’s Do Not Call List at the time of the calls. By making or causing others to make telephone sales calls to telephone numbers on the Indiana Do Not Call List at the time of the calls, Defendants committed many violations of the TSCA, Ind. Code § 24-4.7-4-1.

288. As telephone solicitors, suppliers, and/or callers, Defendants may not sell, transfer, or make available to another person for solicitation purposes a consumer's telephone number if the telephone number is included in the most current version of Indiana's Do Not Call List. Ind. Code § 24-4.7-4-7(b).

289. Defendants knew or should have known that these telephone numbers were included in the applicable version of Indiana's Do Not Call List.

290. As telephone solicitors, suppliers, and callers, Defendants may not transfer a live call to one or more persons if the call has been placed to a consumer in violation of the TSCA, Ind. Code 24-4.7 or the Auto-Dialer Act, Ind. Code 24-5-14. Ind. Code § 24-4.7-4-7(c). Upon information and belief, Defendants may have transferred live calls to people where the calls had been placed in violation of the TSCA and/or the Auto-Dialer Act.

291. As telephone solicitors, suppliers, and callers, Defendants must immediately disclose: the solicitor's true first and last name; the name of the business or person on whose behalf the telephone solicitor is soliciting; and the person with which the solicitor is employed or has contracted. Defendants use of telephone sales calls that did not use business name or the first and last name of the solicitor violated Ind. Code § 24-4.7-4-2.

292. These telephone sales calls included but were not limited to every voicemail left by a Transfer Specialist when the voicemail was recorded by another person, and whenever a Transfer Specialist or Sales Agent referred to business name as something other than MV Realty.

293. As telephone solicitors, suppliers, and callers, Defendants may not provide substantial assistance or support to another person if Defendants know or consciously avoid knowing that the person has engaged in any act or practice that violates the TSCA. Ind. Code § 24-4.7-4-7(d). Upon information and belief, Defendants provided substantial assistance or support to other people whom Defendants knew or consciously avoided knowing were engaging in acts or practices that violated the TSCA.

294. Defendants may not provide substantial assistance or support to any other telephone solicitor, supplier, or caller if Defendants know or consciously avoid knowing that the telephone solicitor, supplier, or caller has engaged in any act or practice that violates the TSCA. Ind. Code § 24-4.7-4-7(e). Upon information and belief, Defendants may have provided substantial assistance or support to other telephone solicitors, suppliers, or callers even though Defendants knew or consciously avoided knowing they were engaging in acts or practices that violated the TSCA.

295. Each telephone sales call made to telephone numbers on Indiana's Do Not Call List is a violation of Ind. Code § 24-4.7-4-1 and constitutes a "deceptive act," within the meaning of Ind. Code § 24-4.7-5-1.

296. Each telephone sales call made to Indiana consumers where Defendants did not immediately disclose the solicitor's true first and last name and/or the name of the business on whose behalf the telephone solicitor was soliciting is a violation of Ind. Code § 24-4.7-4-2 and constitutes a "deceptive act," within the meaning of Ind. Code § 24-4.7-5-1.

297. Upon information and belief, Defendants made, caused to be made, or assisted and facilitated in the making of approximately 3,121 violative calls to Indiana residents on the Indiana Do Not Call List through PhoneBurner.

298. Upon information and belief, Defendants made, caused to be made, or assisted and facilitated in the making of at least one telephone sales call to Indiana residents on the MV Realty Lead List.

299. Upon information and belief, Defendants made, caused to be made, or assisted and facilitated in the making 12,881 telephone sales calls to Indiana Consumers on the MV Realty Lead List that were on the Indiana Do Not Call List.

300. In total, Defendants made, caused to be made, or assisted and facilitated in the making approximately 16,002 violative calls to Indiana Consumers on the Indiana Do Not Call List in violation of the TSCA.

301. It is believed and averred that Defendants made and/or participated in additional calls made to telephone numbers on Indiana's Do Not Call List; the numbers, dates, and times of said calls are known to Defendants, but are not known to Plaintiff at this time.

302. Plaintiff asserts that Defendants may have committed additional violations of the TSCA arising from their participation in these additional calls.

COUNT V
Violations of the Regulation of Automatic
Machines Dialing Act ("Auto-Dialer Act")
Ind. Code 24-5-14
(As to all Defendants)

303. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

304. The Automatic Machines Dialing Act (“Auto-Dialer Act”) prohibits certain persons and entities from using certain types of devices and/or software to send unwanted robocalls to Hoosiers.

305. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester violated the Auto-dialer Act, when Defendants used, caused to be used, or assisted and facilitated in the using of an automated dialing-announcing device to make telephone calls to Indiana residents that left a prerecorded message.

306. The recipients of the telephone calls described above were “subscribers,” as defined in Ind. Code § 24-5-14-4.

307. By contacting or attempting to contact subscribers in Indiana by telephone, Defendants are “callers”, within the meaning of Ind. Code § 24-5-14-2.

308. The telephone calls that left a prerecorded voicemail, as described above, were made by “an automated dialing-announcing device,” within the meaning of Ind. Code § 24-5-14-1.

309. An automatic dialing-announcing device is a device that: “selects and dials telephone numbers” and “working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.” Ind. Code § 24-5-14-1.

310. The software and/or devices, including but not limited to the MV Realty's CRM and/or PhoneBurner, used by the Transfer Specialists was an automatic dialing-announcing device.

311. The software and/or devices selected and dialed Indiana consumers' phone numbers, and then it disseminated a prerecorded message to the telephone number called in the form of a prerecorded voicemail.

312. Upon information and belief, the recipients of the prerecorded messages did not knowingly or voluntarily request, consent, permit, or authorize receipt of the messages.

313. The prerecorded messages were not preceded by a live operator who obtained each recipient's consent before the message was delivered.

314. By using or connecting an automatic dialing-announcing device to telephone lines in Indiana and disseminating prerecorded voice messages without the required consent or authorization, Defendants committed many violations of the Auto-Dialer Act, Ind. Code § 24-5-14-5(b).

315. Each of the automated dialing-announcing device calls is a violation of the Auto-Dialer Act and constitutes a deceptive act that is actionable by the Indiana Attorney General under Ind. Code § 24-5-14-13.

316. Upon information and belief, Defendants made, caused to be made, or assisted and facilitated in the making of approximately 17,288 violative calls to Indiana residents.

317. It is believed and averred that Defendants made and/or participated in additional Auto-Dialer calls to Indiana telephone numbers; the numbers, dates, and times of said calls are known to Defendants, but are not known to Plaintiff at this time. Plaintiff asserts that Defendants committed additional violations of the Auto-Dialer Act arising from its participation in these additional robocalls.

COUNT VI
Violations of the Telephone Solicitations Act
Ind. Code 24-5-12
(As to all corporate Defendants)

318. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

319. Telephone solicitors that make a false representation or implication as to the identity of the person making the solicitation must register as a telephone solicitor with the Consumer Protection Division of the Office of the Indiana Attorney General.

320. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC violated the Telephone Solicitations Act, Ind. Code 24-5-12, when Defendants failed to register with the Office of the Indiana Attorney General before doing business in Indiana.

321. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC are “persons,” within the meaning of Ind. Code § 24-5-12-4.

322. The corporate Defendants' employees, including the Transfer Specialists and Sales Agents, were salespersons, as defined by Ind. Code § 24-5-12-7.

323. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC were “sellers,” within the meaning of Ind. Code § 24-5-12-8.

324. Defendants, personally or through a salesperson, or through the use of an automated dialing and answering device, made a solicitation where there was a false representation or implication as to the identity of the person making the solicitation.

325. The telephone calls made by Defendants or Defendants' salespersons to Indiana consumers were “solicitations,” within the meaning of Ind. Code § 24-5-12-9.

326. The HBA was an “item,” within the meaning of Ind. Code § 24-5-12-2.

327. When a Sales Agent and Transfer Specialist made a solicitation and said he or she was calling on behalf of the Homeowner Benefit Program, instead of any MV Realty entity, Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC made a false representation or implication as to the identity of the person making the solicitation.

328. As sellers, Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC must register with the Consumer Protection Division of the Office of the Indiana Attorney General before doing business in Indiana, as required by Ind. Code § 24-5-12-11.

329. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC never registered with the Consumer Protection Division of the Office of the Indiana Attorney General, even though Defendants did business in Indiana.

330. By failing to comply with any provision of Ind. Code 24-5-14, Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC committed deceptive acts that are actionable by the Indiana Attorney General under Ind. Code § 24-5-12-23.

COUNT VII
Violations of the Deceptive Consumer Sales Act (“DCSA”)
Ind. Code 24-5-0.5
(As to the MV Realty HBA Defendants)

331. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

332. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) were, and remain involved in, “consumer transactions” in Indiana within the meaning of Ind. Code § 24-5-0.5-2.

333. The MV Realty HBA Defendants are “suppliers,” within the meaning of Code § 24-5-0.5-2.

334. As alleged herein, the MV Realty HBA Defendants have regularly engaged in a pattern or practice of unfair, abusive, and/or incurable deceptive acts, omissions, and/or practices affecting Indiana consumers in connection with real estate transactions, in violation of Ind. Code 24-5-0.5-3(a) and (c), by marketing their

Homeowner Benefit Program and related Homeowner Benefit Agreements in a manner that knowingly and intentionally deceived Indiana consumers.

335. These unfair, abusive, and/or incurable deceptive acts and practices include a pattern of committing at least the following violations of law with the intent to defraud or mislead Indiana consumers:

- a. Misrepresenting or omitting information that MV Realty intends to record a lien against the consumer's home in the county recorder's office where their real property is located in connection with the HBA agreement in violation of Ind. Code § 24-5-0.5-3(b)(1) and Ind. Code § 24-5-0.5-3(b)(8);
- b. Misrepresenting or omitting information that the HBA agreement would be binding on a consumer's heirs and successors in interest in violation of Ind. Code § 24-5-0.5-3(b)(1) and Ind. Code § 24-5-0.5-3(b)(8);
- c. Targeting vulnerable consumers in financial distress by advertising that consumers can receive "quick cash without taking out a loan, paying interest, or having monthly payments," in violation of Ind. Code § 24-5-0.5-3(b)(1) and Ind. Code § 24-5-0.5-3(b)(8);
- d. Both explicitly and implicitly suggesting to consumers that the benefit payment was not a loan and would not have to be paid back, in violation of Ind. Code § 24-5-0.5-3(b)(1) and Ind. Code § 24-5-0.5-3(b)(8);

- e. Misrepresenting the services that MV Realty will provide if and when a consumer decides to sell their home in violation of Ind. Code § 24-5-0.5-3(b)(1) and Ind. Code § 24-5-0.5-3(b)(8);
- f. Describing the HBA incentive payment as a “stimulus” or “benefit funds” in various advertisements, intending to mislead consumers into believing that the HBA program had the sponsorship or approval of a government or non-profit entity or that the HBA program otherwise had benefits, uses, or characteristics that it did not in fact have, in violation of Ind. Code § 24-5-0.5-3(b)(1);
- g. Unfairly and deceptively providing false and misleading information to consumers about the Homeowner Benefit Program in telephone solicitations, robocalls, emails, and text messages to Indiana consumers, in violation of Ind. Code § 24-5-0.5-3(b)(1) and Ind. Code § 24-5-0.5-3(b)(8).

COUNT VIII

Violations of the Deceptive Consumer Sales Act (“DCSA”)

Ind. Code 24-5-0.5-3(b)(19)

(Failing to Comply with the TCPA Prerecorded Calls)

(As to all Defendants)

336. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

337. As set forth in Count I, Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC,

Zachman, Mitchell, and Manchester, committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(b)(19) by:

- a. Engaging in a pattern or practice of initiating telephone calls to cellular telephone lines using artificial or prerecorded voices to deliver a message without the prior express consent of the called party and where the call was not initiated for emergency purposes or exempted by rule or order of the Federal Communications Commission under 47 U.S.C. § 227(b)(2)(B), as prohibited by 47 U.S.C. § 227(b)(1)(A)(iii); and
- b. Engaging in a pattern or practice of initiating telephone calls to residential telephone lines of Indiana residents using artificial or prerecorded voices to deliver a message without the prior express written consent of the called party and where the call was not initiated for emergency purposes or exempted by rule or order of the Federal Communications Commission under 47 U.S.C. § 227(b)(2)(B), as prohibited by 47 U.S.C. § 227(b)(1)(B) and 47 C.F.R. § 64.1200(a)(3).

COUNT IX

Violations of the Deceptive Consumer Sales Act (“DCSA”)

Ind. Code 24-5-0.5-3(b)(19)

(Failing to Comply with the TCPA’s National Do Not Call Registry)

(As to all Defendants)

338. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

339. As set forth in Count II, Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(b)(19) by engaging in a pattern or practice of initiating telephone solicitations to residential telephone subscribers in Indiana whose telephone numbers were listed on the National Do Not Call Registry, as prohibited by 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200(c)(2).

COUNT X
Violations of the Deceptive Consumer Sales Act (“DCSA”)
Ind. Code 24-5-0.5-3(a)
(Failing to Comply with the Telemarketing Sales Rule)
(As to all Defendants)

340. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

341. Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by engaging in conduct in violation of the Telemarketing Sales Rule, 16 C.F.R. §§ 310.3-310.4, as set forth in Count III above.

COUNT XI
Violations of the Home Loan Practices Act (“HLP”) (“HLPA”)
Ind. Code 24-9, et seq.
(As to the MV Realty HBA Defendants)

342. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

343. The Home Loan Practices Act (“HLP A”) prohibits a person from engaging in deceptive acts in an act or practice in connection with mortgage transactions or real estate transactions.

344. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) are “persons” within the meaning of Ind. Code § 24-9-2-7.

345. The MV Realty HBA Defendants are “creditors” within the meaning of Ind. Code § 24-9-2-6(a)(1) and Ind. Code § 24-9-2-6(2).

346. The MV Realty Homeowner Benefit Agreements as described herein are “mortgage transactions” within the meaning of Ind. Code § 24-9-3-7(a).

347. The MV Realty Homeowner Benefit Agreements as described herein are “real estate transactions” within the meaning of Ind. Code § 24-9-3-7(b).

348. As alleged herein, the MV Realty HBA Defendants have engaged in deceptive acts, omissions, and/or practices affecting Indiana consumers, in violation of Ind. Code § 24-9-2-7, by marketing Homeowner Benefit Agreements in a manner that knowingly and intentionally deceived Indiana consumers.

349. The MV Realty HBA Defendants violated the Home Loan Practices Act by misrepresenting and omitting the characteristics of the Homeowner Benefit Program by failing to disclose material terms of the program and by omitting important information about the legal effect of the HBA contracts and their subsequent recordation against a consumer’s real property, in violation of Ind. Code § 24-9-2-7(a)(1).

COUNT XII
Violations of the Home Loan Practices Act (“HLP A”)
Ind. Code 24-9, et seq.

(As to the MV Realty HBA Defendants)

350. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

351. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) violated the Home Loan Practices Act by targeting the Homeowner Benefit Program to vulnerable consumers in need of quick cash or small loans by deceptive advertising that consumers can receive “quick cash without taking out a loan, paying interest, or having monthly payments” and by explicitly and implicitly misrepresenting that the benefit payment was not a loan and would not have to be paid back, including deceptive language such as “[t]here’s no obligation to repay the money you receive under this program”

352. These alleged misrepresentations were material misrepresentations in violation of Ind. Code § 24-9-2-7(a)(1).

COUNT XIII
Violations of the Home Loan Practices Act (“HLP A”)
Ind. Code 24-9, et. seq.

(As to the MV Realty HBA Defendants)

353. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

354. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) violated the Home Loan Practices Act by misrepresenting or omitting to consumers that the Memorandums of

Homeowner Benefit Agreements filed with a county recorder do not constitute a lien against a consumer's real property. In reality, they do constitute a lien and the MV Realty HBA Defendants have filed responsive pleadings in mortgage foreclosure lawsuits in other jurisdictions alleging that the Homeowner Benefit Agreements are enforceable liens against real property.

355. These alleged misrepresentations were material misrepresentations in violation of Ind. Code § 24-9-2-7(a)(1).

COUNT XIV
Violations of the Home Solicitation Sales Act ("HSSA")
Ind. Code 24-9, et seq.
(As to the MV Realty HBA Defendants)

356. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

357. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) are "persons" within the meaning of Ind. Code § 24-5-10-5.

358. The MV Realty HBA Defendants are "suppliers" within the meaning of Ind. Code § 24-5-10-6.

359. The MV Realty Homeowner Benefit Agreements as described herein are "consumer transactions" within the meaning of Ind. Code § 24-5-10.

360. The MV Realty Homeowner Benefit Agreements as described herein are "home consumer transactions" within the meaning of Ind. Code § 24-5-10-4.

361. The MV Realty HBA Defendants failed to provide each consumer who executed a Homeowner Benefit Agreement with a notice of cancellation rights that met the requirements of Ind. Code § 24-5-10-9.

362. The MV Realty HBA Defendants have knowingly interfered with each consumer's ability to exercise their rights under the Home Solicitations Sales Act in at least the following ways:

- a. By not providing the requisite notice of cancellation rights;
- b. By refusing or failing to make a full refund to consumers who have requested to cancel their HBA agreement; and/or
- c. By refusing or failing to make a full refund to consumers who have had to make payment to the MV Realty HBA Defendants pursuant to the HBA agreement despite consumers having never received a notification of their right to cancel the transaction.

363. Ind. Code § 24-5-10-16 states that a consumer's right to cancel a home consumer transaction cannot be waived by contract or otherwise.

COUNT XV
Violations of the federal Truth-in-Lending Act ("TILA")
15 U.S.C. § 1601 et seq.
(As to the MV Realty Defendants)

364. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

365. Plaintiff is empowered by the CFPA to bring civil enforcement lawsuits for violations of the statute committed by "covered persons." 12 U.S.C. §§ 5552 and 5565(b).

366. Section 1036(a)(1)(A) of the CFPA prohibits covered persons from offering or providing consumer financial products or services that are not in conformity with "Federal consumer financial law" or otherwise committing any act or omission in violation of a "Federal consumer financial law." 12 U.S.C. § 5536(a)(1)(A).

367. TILA are each a "Federal consumer financial law." 12 U.S.C. § 5481(14) (defining "Federal consumer financial law" to include "enumerated consumer laws" and "any rule or order prescribed by the Bureau under this title"); 12 U.S.C. § 5481(12)(0) (defining "enumerated consumer law" to include TILA).

368. MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) are "covered person[s]" within the meaning of 12 U.S.C. § 5481(6)(A) because Defendants offer or provide consumer financial products or services to consumers to use primarily for personal, family, or household purposes. The service offered or provided constitutes a "financial product or service" because it is "extending credit and servicing loans, including acquiring, purchasing, selling, broking and other extensions of credit." 12 U.S.C. § 5481(15)(A)(i).

369. At all times relevant hereto, by entering into the Homeowner Benefit Agreements as described herein, the MV Realty HBA Defendants regularly extended consumer credit for which a finance charge is or may be imposed and are the

persons/organizations to whom the debts are initially payable. Such defendants are thus “creditor[s]” within the meaning of 15 U.S.C. § 1602(g) and 12 C.F.R. § 1026.2(a)(17).

370. The MV Realty Homeowner Benefit Agreements as described herein are transactions made with “consumer[s]” within the meaning of 15 U.S.C. § 1602(i) and 12 C.F.R. § 1026.2(a)(11).

371. In the course of entering into the Homeowner Benefit Agreements as described herein, the MV Realty HBA Defendants failed to provide “material disclosures” within the meaning of 15 U.S.C. § 1602(v) including, but not limited to:

- a. Disclosure of the finance charge in each transaction as required by 15 U.S.C. § 1638(a)(3) and 12 C.F.R. § 1026.18(d); and
- b. Disclosure of the annual percentage rate in each transaction as required by 15 U.S.C. § 1638(a)(4) and 12 C.F.R. § 1026.18(e).

COUNT XVI

Violations of the Deceptive Consumer Sales Act (“DCSA”)

Ind. Code 24-5-0.5-3(a)

(Failing to Provide Material TILA Disclosures)

(As to the MV Realty HBA Defendants)

372. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

373. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by omitting material disclosures including disclosure of the finance charge in each transaction as required

by 15 U.S.C. § 1638(a)(3) and 12 C.F.R. § 1026.18(d) and disclosure of the annual percentage rate in each transaction as required by 15 U.S.C. § 1638(a)(4) and 12 C.F.R. § 1026.18(e).

COUNT XVII
Violation of the Indiana Uniform Consumer Credit Code
Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508
(Usury)
(As to MV Realty HBA Defendants)

374. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

375. The requirement in each HBA transaction that funds previously advanced to homeowners must be repaid upon the occurrence of subsequent events creates debt which constitutes consumer “loan[s]” within the meaning of Ind. Code § 24-4.5-1-301.5(9) and “loan[s]” within the meaning of Ind. Code § 24-4.5-3-106(1).

376. The MV Realty HBA Defendants are “lender[s]” as that term is defined at Ind. Code § 24-4.5-3-107(1).

377. The amount to be repaid to Defendants in each transaction in excess of the sum loaned to consumers constitutes a loan finance charge as defined at Ind. Code § 24-4.5-3-109.

378. The following examples illustrate amounts loaned based on .03% of home value per HBA agreements, repayment based on minimum amount required upon triggering event, the finance charge and the resulting annual percentage rates (APRs):

Amount of HBA payment to consumer	Time of Triggering Event	Repayment Amount	Finance Charge	Minimum APR
\$500.00	2 Years	\$5,000.00	\$4,500.00	216.23%
	5 Years	\$5,000.00	\$4,500.00	58.49%
	7 Years	\$5,000.00	\$4,500.00	38.95%
\$700.00	2 Years	\$7,000.00	\$6,300.00	216.23%
	5 Years	\$7,000.00	\$6,300.00	58.49%
	7 Years	\$7,000.00	\$6,300.00	38.95%

379. For each repayment required pursuant to a Homeowner Benefit Agreement in which repayment is or was required within eight (8) years of the inception of the agreement, the rate charged by the MV Realty HBA Defendants exceeds the rate permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508.

COUNT XVIII
Violation of the Deceptive Consumer Sales Act (“DCSA”)
Ind. Code § 24-5-0.5-3(a)
(Usury)
 (As to MV Realty HBA Defendants)

380. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

381. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by engaging in

conduct in violation of the usury provision of the Indiana Uniform Consumer Credit Code, Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508, as set forth in Count XVII above.

COUNT XIX

Violation of the Indiana Uniform Consumer Credit Code

Ind. Code §§ 24-4.5-3-502(3), 24-4.4-2-401(1), Ind. Code § 24-4.5-3-502.1(3)

(Failure to be Licensed)

(As to MV Realty HBA Defendants)

382. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

383. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) “regularly engaged” in extending consumer credit as that term is defined at Ind. Code § 24-4.5-1-301.5(39).

384. Each extension of consumer credit by the MV Realty HBA Defendants constitutes either:

- a. a “consumer loan” within the meaning of Ind. Code § 24-4.5-1-301.5(9), or
- b. a “first lien mortgage” within the meaning of Ind. Code § 24-4.5-301.5(18), or
- c. a “subordinate lien mortgage transaction[s]” within the meaning of Ind. Code § 24-4.5-1-305.1(42).

385. The MV Realty HBA Defendants failed to acquire a license from the Indiana Department of Financial Institutions as required by:

- a. Ind. Code § 24-4.5-3-502(3) for consumer [non-mortgage] loans,
or
- b. Ind. Code § 24-4.4-2-401(1) for first lien mortgage loans, or
- c. Ind. Code § 24-4.5-3-502.1(3) for subordinate lien mortgage
loans,

in order to make any of the foregoing loans, as may be applicable.

COUNT XX

Violation of the Deceptive Consumer Sales Act (“DCSA”)

Ind. Code § 24-5-0.5-10(a)(1)

(Failure to be Licensed)

(As to MV Realty HBA Defendants)

386. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

387. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) committed deceptive acts violating Ind. Code § 24-5-0.5-10(a)(1) by engaging in conduct which requires licensure by the Indiana Department of Financial Institutions, to wit, engaging in consumer loan [non-mortgage] transactions, first lien mortgage loans or subordinate lien mortgage loans and failing to obtain licensure, in violation of the licensure provisions of the Indiana Uniform Consumer Credit Code, including Ind. Code § 24-4.5-3-502.1(3), Ind. Code § 24-4.5-3-502(3), Ind. Code § 24-4.4-2-401(1), as set forth in Count XIX above.

COUNT XXI

Violations of the federal Truth-in-Lending Act (“TILA”)

15 U.S.C. § 1601 et seq.

As amended by the Home Ownership and Equity Protection Act

(As to MV Realty HBA Defendants)

388. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

389. Plaintiff is empowered by the CFPA to bring civil enforcement lawsuits for violations of the statute committed by "covered persons." 12 U.S.C. §§ 5552 and 5565(b).

390. Section 1036(a)(1)(A) of the CFPA prohibits covered persons from offering or providing consumer financial products or services that are not in conformity with "Federal consumer financial law" or otherwise committing any act or omission in violation of a "Federal consumer financial law." 12 U.S.C. § 5536(a)(1)(A).

391. TILA and HOEPA are each a "Federal consumer financial law." 12 U.S.C. § 5481(14) (defining "Federal consumer financial law" to include "enumerated consumer laws" and "any rule or order prescribed by the Bureau under this title"); 12 U.S.C. § 5481(12)(0) (defining "enumerated consumer law" to include TILA).

392. MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) are "covered person[s]" within the meaning of 12 U.S.C. § 5481(6)(A) because Defendants offer or provide consumer financial products or services to consumers to use primarily for personal, family, or household purposes. The service offered or provided constitutes a "financial product or service" because it is "extending credit and servicing loans, including acquiring, purchasing, selling, broking and other extensions of credit." 12 U.S.C. § 5481(15)(A)(i).

393. The MV Realty Homeowner Benefit Agreements as described herein constitute “high-cost mortgage[s]” within the meaning of 15 U.S.C. § 1602(aa) and 12 C.F.R. § 1026.32(a)(1)(i) because, for any such agreement in which repayment is required within eight (8) years of the inception of the agreement, the annual percentage rate charged will exceed the average prime offer rate on that date for comparable transactions by:

- a. 6.5 percentage points for first-lien transactions, or
- b. 8.5 percentage points for subordinate-lien transactions.

394. In the course of entering into the Homeowner Benefit Agreements as described herein, the MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC):

- a. Failed to provide the following disclosure as required by 15 U.S.C. § 1639(a)(1) and 12 C.F.R. § 1026.32(c)(1):

You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.

- b. Failed to disclose the annual percentage rate as required by 15 U.S.C. § 1639(a)(2) and 12 C.F.R. § 1026.32(c)(2);
- c. Engaged in a pattern or practice of extending credit to consumers based on the consumers’ collateral without regard to the consumers’ repayment ability, including the consumers’ current

and expected income, current obligations, and employment, contrary to 15 U.S.C. § 1639(h) and 12 C.F.R. § 1026.34(a)(4) & § 1026.43(c); and

- d. Engaged in a pattern or practice of extending credit to consumers under high-cost mortgages without first receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a State housing finance authority, that each such consumer has received counseling on the advisability of the mortgage as required by 15 U.S.C. § 1639(u) and 12 C.F.R. §1026.34(a)(5).

COUNT XXII

Violation of the Deceptive Consumer Sales Act (“DCSA”)

Ind. Code § 24-5-0.5-3(a)

(Failure to make disclosures required TILA, as amended by HOEPA)

(As to MV Realty HBA Defendants)

395. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

396. The MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by:

- a. Omitting material disclosures including the disclosures relating to mortgage and foreclosure required by 15 U.S.C. § 1639(a)(1) and 12 C.F.R. § 1026.32(c)(1);

- b. Failing to disclose the annual percentage rate as required by 15 U.S.C. § 1639(a)(2) and 12 C.F.R. § 1026.32(c)(2);
- c. Engaging in a pattern or practice of extending credit to consumers based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment, contrary to 15 U.S.C. § 1639(h) and 12 C.F.R. § 1026.33(a)(4) & § 1026.43(c);
- d. Engaging in a pattern or practice of extending credit to consumers under high-cost mortgages without first receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a State housing finance authority, that each such consumer has received counseling on the advisability of the mortgage as required by 15 U.S.C. § 1639(u) and 12 C.F.R. § 1026.34(a)(5).

COUNT XXIII

Violation of the federal Truth-in-Lending Act ("TILA")

15 U.S.C. § 1635 et seq.

(Failure to Provide Complying Notice of Right of Rescission)

(As to MV Realty HBA Defendants)

397. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

398. Plaintiff is empowered by the CFPA to bring civil enforcement lawsuits for violations of the statute committed by "covered persons." 12 U.S.C. §§ 5552 and 5565(b).

399. Section 1036(a)(l)(A) of the CFPA prohibits covered persons from offering or providing consumer financial products or services that are not in conformity with "Federal consumer financial law" or otherwise committing any act or omission in violation of a "Federal consumer financial law." 12 U.S.C. § 5536(a)(l)(A).

400. TILA are each a "Federal consumer financial law." 12 U.S.C. § 5481(14) (defining "Federal consumer financial law" to include "enumerated consumer laws" and "any rule or order prescribed by the Bureau under this title"); 12 U.S.C. § 5481(12)(0) (defining "enumerated consumer law" to include TILA).

401. MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) are "covered person[s]" within the meaning of 12 U.S.C. § 5481(6)(A) because Defendants offer or provide consumer financial products or services to consumers to use primarily for personal, family, or household purposes. The service offered or provided constitutes a "financial product or service" because it is "extending credit and servicing loans, including acquiring, purchasing, selling, broking and other extensions of credit." 12 U.S.C. § 5481(15)(A)(i).

402. Each Homeowner Benefit Agreement entered into with a consumer constitutes a "security interest" within the meaning of 12 C.F.R. § 1026.2(a)(25).

403. The MV Realty HBA Defendants recorded the Homeowner Benefit Agreements in the offices of county recorders throughout the State in each homeowner's chain of title. As each homeowner was using such property as their principal dwelling and was the party to whom credit was extended, each homeowner had the right to rescind the transaction until midnight of the third business day following:

- a. Consummation of the transaction,
- b. The date Defendants provided each homeowner with Truth-in-Lending disclosures, or
- c. The date each homeowner received a complying notice of the right to cancel,

whichever was later, all in accordance with 15 U.S.C. §1635(a) and 12 C.F.R. §1026.23(a)(1).

404. The MV Realty HBA Defendants failed to provide notices of the right of rescission to homeowners in the format required by 15 U.S.C. §1635(a) and 12 C.F.R. §1026.23(b)(1), Appendix H-8, because:

- a. Defendants' notices failed to disclose that cancellation extends to three days after consummation of the transaction or homeowners receipt of Truth-in-Lending disclosures or receipt of a complying notice of the right to cancel, whichever is later,

- b. Defendants' notices falsely required homeowners to return the loaned funds prior to Defendants having taken the necessary steps to cancel the security interests,
- c. Defendants' notices falsely stated that the homeowners were required to repay the loaned funds within 10 days from the homeowner's election to rescind the transaction when, in fact, any requirement to return loaned funds was not effective until Defendants cancelled the security interest, and
- d. Defendants failed to provide forms for homeowners to exercise their right to rescind.

COUNT XXIV

Violation of the Deceptive Consumer Sales Act ("DCSA")

Ind. Code § 24-5-0.5-3(a)

(Failure to Provide Complying Notice of Right of Rescission)

(As to MV Realty HBA Defendants)

405. Plaintiff incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

406. The MV Realty HBA Defendants committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by failing to provide notice of the right of rescission in the format required by 15 U.S.C. §1635(a) and 12 C.F.R. §1026.23(a)(1), as more fully set forth in the preceding count.

CONSUMER INJURY

407. Consumers in the United States and in Indiana have suffered and will continue to suffer injury as a result of Defendants' violations of the TCPA,

TSR, Truth-in-Lending Act, HOEPA and Indiana law. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm the public interest.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests that this Court:

1. Enter judgment in favor of Plaintiff and against each Defendant for the violations as alleged herein;
2. Grant all legal or equitable relief, as allowable by the laws described herein, including the specific relief below;
3. Grant such other legal or equitable relief as this Honorable Court deems just and proper;

**Relief Requested for Count I
(Violations of the TCPA - Prerecorded Calls)**

4. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester for violations of 47 U.S.C. § 227(b)(1)(A)(iii), 47 U.S.C. § 227(b)(1)(B), and/or 47 C.F.R. § 64.1200(a)(2), as allowed by 47 U.S.C. § 227(g)(1);
5. Enjoin Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester from making, initiating, or causing to be made or initiated telephone calls

which violate 47 U.S.C. § 227(b)(1)(A)(iii), 47 U.S.C. § 227(b)(1)(B), and/or 47 C.F.R. § 64.1200(a)(2), as allowed by 47 U.S.C. § 227(g)(1);

6. Award Plaintiff damages of not more than \$1,500 per violation of 47 U.S.C. § 227(b)(1)(A)(iii), as allowed by 47 U.S.C. § 227(g)(1);

7. Award Plaintiff damages of not more than \$1,500 per violation of 47 U.S.C. § 227(b)(1)(B), as allowed by 47 U.S.C. § 227(g)(1);

8. Award Plaintiff damages of not more than \$1,500 per violation of 47 C.F.R. § 64.1200(a)(2), as allowed by 47 U.S.C. § 227(g)(1);

9. Upon information and belief, there were approximately 17,288 violative calls to Indiana residents for a total of \$25,932,000.00 in statutory damages under 47 U.S.C. § 227(b)(1)(A)(iii), 47 U.S.C. § 227(b)(1)(B), and/or 47 C.F.R. § 64.1200(a)(2).

**Relief Requested for Count II
(Violations of the TCPA - DNC)**

10. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester for violations of 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200(c)(2), as allowed by 47 U.S.C. § 227(g)(1);

11. Enjoin Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester from making, initiating, or causing to be made or initiated telephone calls which violate 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200(c)(2);

12. Award Plaintiff damages of not more than \$1,500 per violation of 47 U.S.C. § 227(c), as allowed by 47 U.S.C. § 227(g)(1);

13. Award Plaintiff damages of not more than \$1,500 per violation of 47 C.F.R. § 64.1200(c)(2), as allowed by 47 U.S.C. § 227(g)(1);

14. Upon information and belief, there were approximately 42,479 violative calls to Indiana residents for a total of \$63,718,500 in statutory damages under 47 U.S.C. § 227(c), and/or 47 C.F.R. § 64.1200(c)(2).

**Relief Requested for Count III
(Violations of the TSR)**

15. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester for violations of 16 C.F.R. § 310.3(a) and 16 C.F.R. § 310.4(b), as allowed by 15 U.S.C. § 6103(a);

16. Enjoin, as allowed by 15 U.S.C. § 6103(a), Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester from making, initiating, causing to be made or initiated, or assisting and facilitating calls which violate the TSR as described herein;

17. Award damages, restitution or other compensation, as allowed by 15 U.S.C. § 6103(a), on behalf of residents of Indiana for telephone calls transmitted by Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC,

LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester which violate the TSR as described herein.

**Relief Requested for Count IV
(Violations of the TSCA)**

18. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester for violations of Ind. Code 24-4.7-4, Ind. Code § 24-4.7-4-1, and/or Ind. Code § 24-4.7-4-2;

19. Enjoin Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester from violating Ind. Code 24-4.7-4, as allowed by Ind. Code § 24-4.7-5-2(a)(1);

20. Award damages to the Plaintiff up to \$10,000 for the first violation by Defendants, and up to \$25,000 for subsequent violations of Ind. Code § 24-4.7-4, as allowed by Ind. Code § 24-4.7-5-2(a)(2);

21. Upon information and belief, Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester made, caused to be made, controlled those making, or assisted and facilitated in the making approximately 16,002 violative calls to Indiana residents on the Indiana Do Not Call List for a total of \$400,035,000.00 in civil penalties;

22. Award damages to the Plaintiff against MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester, remitting all the money the Defendants obtained through a violation of Ind. Code 24-4.7-4, as allowed by Ind. Code § 24-4.7-5-2(a)(3);

23. Award attorney's fees, and costs against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester, as allowed by Ind. Code § 24-4.7-5-2(a)(4)-(5);

**Relief Requested for Count V
(Violations of the Auto-Dialer Act)**

24. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester for violations of Ind. Code 24-5-14;

25. Enjoin Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester from violating Ind. Code 24-5-14, as allowed by Ind. Code § 25-14-13(a)(1);

26. Award damages to Plaintiff against MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester and require Defendants to pay civil penalties up

to \$10,000 for the first violation, and up to \$25,000 for subsequent violations of Ind. Code § 24-5-14, as allowed by Ind. Code § 24-5-14-13(a)(2);

27. Upon information and belief, Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester made, caused to be made, or assisted and facilitated in the making approximately 17,288 violative calls to Indiana residents on the Indiana Do Not Call List for a total of \$432,185,000.00 in civil penalties;

28. Award damages to Plaintiff against MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester, remitting all the money the Defendants obtained through a violation of Ind. Code 24-5-14, as allowed by Ind. Code § 24-5-14-13(a)(1);

29. Void all contracts Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC, Zachman, Mitchell entered into where there was a violation of Ind. Code 24-5-14, as allowed by Ind. Code § 24-5-14-13(a)(1).

**Relief Requested for Count VI
(Violations of the Telephone Solicitations Act)**

30. Declare that Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC were in violation of Ind. Code § 24-5-12-10, so that such HBAs are cancelable, as allowed by Ind. Code § 24-5-12-18;

31. Enjoin Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC from violating Ind. Code § 24-5-12, as allowed by Ind. Code § 24-5-12-23(a);

32. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC for violations of Ind. Code 24-5-12, as allowed by Ind. Code § 24-5-12-23(b);

33. Appoint a receiver, as allowed Ind. Code § 24-5-12-23(a);

34. Declare as void or limit the application of Defendants' contracts or clauses resulting from deceptive acts, as allowed by Ind. Code § 24-5-12-23(a);

35. Award damages to Plaintiff by requiring Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, and MV Brokerage of Indiana, LLC to pay restitution to aggrieved consumers, as allowed by Ind. Code § 24-5-12-23(a).

**Relief Requested for Counts VII, XIV, XVI, XVIII, XX, XXII, XXIV
(Violations of the DCSA as to MV Realty HBA Defendants)**

36. Award damages to Plaintiff and against MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) for violations of Ind. Code § 24-5-0.5-3 and Ind. Code § 24-5-0.5-10, regarding Counts VII, XIV, XVI, XVIII, XX, XXII, and XXIV;

37. Enjoin, as allowed by Ind. Code § 24-5-0.5-4(c), MV Realty HBA Defendants from violating Ind. Code 24-5-0.5;

38. Award damages to Plaintiff by requiring Defendants to pay civil penalties up to \$500 for each incurable deceptive act, as allowed by Ind. Code § 24-5-0.5-8;

39. Award damages to Plaintiff by requiring MV Realty HBA Defendants to pay civil penalties up to \$5,000 for each violation of Ind. Code § 24-5-0.5-3, as allowed by Ind. Code § 24-5-0.5-4(g);

40. Award damages to Plaintiff by requiring MV Realty HBA Defendants to pay civil penalties up to \$5,000 for each violation of Ind. Code § 24-5-0.5-10, as allowed by Ind. Code § 24-5-0.5-4(g);

41. Award damages to Plaintiff by requiring MV Realty HBA Defendants to pay triple damages for violations against a senior consumer, as allowed by Ind. Code § 24-5-0.5-4(c)(3);

42. Require MV Realty HBA Defendants to make payments of the money unlawfully received from aggrieved consumers to be held in escrow for distribution to aggrieved consumers, as allowed by Ind. Code § 24-5-0.5-4(c)(2);

43. Award damages to Plaintiff by requiring MV Realty HBA Defendants to pay reasonable costs for Plaintiff's investigation and prosecution of this action, as allowed by Ind. Code § 24-5-0.5-4(c)(4);

44. Appoint a receiver, as allowed by Ind. Code § 24-5-0.5-4(c)(5);

45. Declare as void or limit the application of Defendants' contracts or clauses resulting from deceptive acts, as allowed by Ind. Code § 24-5-0.5-4(d);

46. Award damages to Plaintiff by requiring MV Realty HBA Defendants to pay restitution to aggrieved consumers, as allowed by Ind. Code § 24-5-0.5-4(d);

47. Declare that MV Realty HBA Defendants' HBA agreements are void and unenforceable. In each and every transaction in which the MV Realty HBA Defendants entered into HBA agreements with Indiana consumers without providing a requisite notice of right to cancel the transaction in compliance with the Home Solicitation Sales Act, a final agreement has not occurred, and such transactions are void as a matter of law pursuant to Ind. Code § 24-5-10-11;

48. Each violation of Ind. Code § 24-5-10-17(a) (Home Solicitation Sales Act) requires a full refund of any harvested HBAs by the MV Realty HBA Defendants pursuant to Ind. Code § 24-5-10-18(1);

49. Each violation of Ind. Code § 24-5-10-17(a) (Home Solicitation Sales Act) is a separate deceptive act subject to the remedies and penalties of Ind. Code § 24-5-0.5.

**Relief Requested for Counts VIII and IX
(Violations of the DCSA - TCPA violations)**

50. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester for violations of Ind. Code § 24-5-0.5-3(b)(19); regarding Counts VIII and IX;

51. Enjoin, as allowed by Ind. Code § 24-5-0.5-4(c), Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of

Indiana, LLC, Zachman, Mitchell, and Manchester from violating Ind. Code 24-5-0.5-3(b)(19);

52. Award damages to Plaintiff requiring Defendants pay civil penalties up to \$1,500 for each violation of Ind. Code § 24-5-0.5-3(b)(19), as allowed by Ind. Code § 24-5-0.5-4(h);

53. Require Defendants to make payments of the money unlawfully received from aggrieved consumers to be held in escrow for distribution to aggrieved consumers, as allowed by Ind. Code § 24-5-0.5-4(c)(2);

54. Award damages to Plaintiff requiring Defendants to pay reasonable costs for Plaintiff's investigation and prosecution of this action, as allowed by Ind. Code § 24-5-0.5-4(c)(4);

55. Appoint a receiver, as allowed by Ind. Code § 24-5-0.5-4(c)(5);

56. Declare as void or limit the application of Defendants' contracts or clauses resulting from deceptive acts, as allowed by Ind. Code § 24-5-0.5-4(d);

57. Award damages to Plaintiff requiring Defendants to pay restitution to aggrieved consumers, as allowed by Ind. Code § 24-5-0.5-4(d).

**Relief Requested for Count X
(Violations of the DCSA - TSR violations)**

58. Award damages in favor of Plaintiff and against Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester for violations of Ind. Code § 24-5-0.5-3(a), regarding Count X;

59. Enjoin, as allowed by Ind. Code § 24-5-0.5-4(c), Defendants MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty PBC, LLC, MV Brokerage of Indiana, LLC, Zachman, Mitchell, and Manchester from violating Ind. Code 24-5-0.5;

60. Award damages to Plaintiff requiring Defendants pay civil penalties up to \$500 for each incurable deceptive act, as allowed by Ind. Code § 24-5-0.5-8;

61. Award damages to Plaintiff requiring Defendants pay civil penalties up to \$5,000 for each violation of Ind. Code § 24-5-0.5-3. Ind. Code § 24-5-0.5-4(g);

62. Award damages to Plaintiff requiring Defendants pay triple damages for violations against a senior consumer, as allowed by Ind. Code § 24-5-0.5-4(c)(3);

63. Require Defendants to make payments of the money unlawfully received from aggrieved consumers to be held in escrow for distribution to aggrieved consumers, as allowed by Ind. Code § 24-5-0.5-4(c)(2);

64. Award damages to Plaintiff requiring Defendants to pay reasonable costs for Plaintiff's investigation and prosecution of this action, as allowed by Ind. Code § 24-5-0.5-4(c)(4);

65. Appoint a receiver, as allowed by Ind. Code § 24-5-0.5-4(c)(5);

66. Declare as void or limit the application of Defendants' contracts or clauses resulting from deceptive acts, as allowed by Ind. Code § 24-5-0.5-4(d);

67. Award damages to Plaintiff requiring Defendants to pay restitution to aggrieved consumers, as allowed by Ind. Code § 24-5-0.5-4(d).

**Relief Requested for Counts XI, XII, XIII
(Violations of HLP A)**

68. Award damages in favor of Plaintiff and against MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty PBC, LLC) for violations of Ind. Code § 24-9-2-7(a)(1).

69. Enjoin, as allowed by Ind. Code § 24-9-8-3(a)(1), MV Realty HBA Defendants from violating Ind. Code § 24-9-2-7(a)(1);

70. Award damages to Plaintiff requiring MV Realty HBA Defendants pay civil penalties up to \$10,000 for each violation of Ind. Code § 24-9-2-7(a)(1).

71. Award damages to Plaintiff requiring MV Realty HBA Defendants to pay reasonable costs for Plaintiff's investigation and prosecution of this action, as allowed by Ind. Code § 24-9-8-3(3).

72. Award damages to Plaintiff requiring MV Realty HBA Defendants to pay restitution to aggrieved consumers, as allowed by Ind. Code § 24-9-8-3(2).

**Relief Requested for Count XV
(Violations of the Truth-in-Lending Act)**

73. Pursuant to 12 U.S.C. § 5552(a)(1), 12 U.S.C. § 5536(a), 12 U.S.C. § 5481(14), 12 U.S.C. § 5481(12) and 15 U.S.C. § 1601 *et seq.*, enter judgment against the MV Realty HBA Defendants as follows:

74. Preliminarily and permanently enjoin the MV Realty HBA Defendants from entering into loan contracts, first lien mortgage transactions or subordinate lien mortgage transactions without providing disclosure of the finance charge in each transaction as required by 15 U.S.C. § 1638(a)(3) and 12 C.F.R. § 1026.18(d) and

without providing disclosure of the annual percentage rate in each transaction as required by 15 U.S.C. § 1638(a)(4) and 12 C.F.R. § 1026.18(e).

75. For homeowners who entered into Homeowner Benefit Agreements and paid any finance charges, award Plaintiff judgment, for the benefit of these homeowners, in the amount of all such finance charges as provided for by 15 U.S.C. § 1640(a)(1) and twice the amount of all such finance charges as provided for by 15 U.S.C. § 1640(a)(2).

76. For homeowners who entered into Homeowner Benefit Agreements and the “triggering” event requiring repayment has not yet occurred, enter declaratory relief in favor of the Plaintiff, for the benefit of these homeowners, that no finance charges need be paid in order to satisfy consumer obligations pursuant to the HBA agreements.

**Relief Requested for Count XVII
(Violations of UCCC – Usury)**

77. Preliminarily and permanently enjoin the MV Realty HBA Defendants from entering into loan contracts, first lien mortgage transactions or subordinate lien mortgage transactions at interest rates in excess of that permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508.

78. For homeowners who entered into Homeowner Benefit Agreements and paid finance charges in excess of that permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508, award Plaintiff judgment, for the benefit of these homeowners,

in the amount of all such excess finance charges as provided for by Ind. Code § 24-4.5-5-202(3).

79. For homeowners who entered into Homeowner Benefit Agreements and paid finance charges in excess of that permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508, upon a finding that the excess charges were made in deliberate violation of or in reckless disregard of Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508, award Plaintiff judgment, for the benefit of these homeowners, the amount of the loan finance charges or ten (10) times the amount of the excess charges, as provided for by Ind. Code § 24-4.5-5-202(4).

80. For homeowners who entered into Homeowner Benefit Agreements and the “triggering” event requiring repayment has not yet occurred, enter declaratory relief in favor of the Plaintiff, for the benefit of these homeowners, that no sums in excess of the finance charges permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508 need be paid in order to satisfy consumer obligations pursuant to the agreements, as provided for by Ind. Code § 24-4.5-5-202(3).

**Relief Requested for Count XVIII
(Violations of the DCSA for Violations of the UCCC – Usury)**

81. Pursuant to Ind. Code § 24-5-0.5-4(c)(1), preliminarily and permanently enjoin the MV Realty HBA Defendants from committing unfair, abusive or deceptive acts or practices in violation of Ind. Code § 24-5-0.5-3(a) by entering into loan contracts, first lien mortgage transactions or subordinate lien mortgage transactions

at interest rates in excess of that permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508.

82. Pursuant to Ind. Code § 24-5-0.5-4(c)(2), for homeowners who entered into Homeowner Benefit Agreements and paid finance charges in excess of that permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508, award Plaintiff judgment, for the benefit of these homeowners, in the amount of all such excess finance charges as provided for by Ind. Code § 24-4.5-5-202(3).

83. Pursuant to Ind. Code § 24-5-0.5-4(d), for homeowners who entered into Homeowner Benefit Agreements and the “triggering” event requiring repayment has not yet occurred, enter declaratory relief in favor of the Plaintiff, for the benefit of these homeowners, that no sums in excess of the finance charges permitted by Ind. Code § 24-4.5-3-201 or Ind. Code § 24-4.5-3-508 need be paid in order to satisfy consumer obligations pursuant to the agreements, as provided for by Ind. Code § 24-4.5-5-202(3).

84. Pursuant to Ind. Code § 24-5-0.5-4(g), award civil penalties, payable to the State of Indiana, in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for each commission of the aforementioned knowing violations in violation of Ind. Code § 24-5-0.5-3(a).

85. Pursuant to Ind. Code § 24-5-0.5-8, award civil penalties, payable to the State of Indiana, in the amount of Five Hundred Dollars (\$500.00) for each commission of the aforementioned incurable deceptive acts in violation of Ind. Code § 24-5-0.5-3(a).

86. Pursuant to Ind. Code § 24-5-0.5-4(c)(4), award the state its reasonable expenses incurred in the investigation and prosecution of this action.

**Relief Requested for Count XIX
(Violations of the UCCC – Failure to be Licensed)**

87. Declare that all such Homeowner Benefit Agreements are void pursuant to Ind. Code § 24-4.5-5-202(2) for failure of the MV Realty HBA Defendants to have the required licensure.

88. Preliminarily and permanently enjoin the MV Realty HBA Defendants from entering into loan contracts, first lien mortgage transactions or subordinate lien mortgage transactions without first obtaining from the Indiana Department of Financial Institutions:

- a. a consumer [non-mortgage] loan license as required by Ind. Code § 24-4.5-3-502(3), or
- b. a first lien mortgage loan license as required by Ind. Code § 24-4.4-2-401(1), or
- c. a subordinate lien mortgage loan license as required by Ind. Code § 24-4.5-3-502.1(3),

as may be applicable.

89. For homeowners who entered into Homeowner Benefit Agreements and paid any part of the principal or the finance charge, award Plaintiff judgment, for the benefit of these homeowners, the amount of all such principal and finance charges

paid and, further, declare that homeowners have no further liability for payment, all as provided for by Ind. Code § 24-4.5-5-202(2).

90. For homeowners who entered into Homeowner Benefit Agreements and the “triggering” event requiring repayment has not yet occurred, enter declaratory relief in favor of the Plaintiff, for the benefit of these homeowners, that homeowners have no liability for payment, all as provided for by Ind. Code § 24-4.5-5-202(2).

**Relief Requested for Count XXI
(Violations of the Truth-in-Lending Act/HOEPA)**

91. Pursuant to 12 U.S.C. § 5552(a)(1), 12 U.S.C. § 5536(a), 12 U.S.C. § 5481(14), 12 U.S.C. § 5481(12) and 15 U.S.C. § 1640(e), enter judgment against the MV Realty HBA Defendants as follows:

92. Preliminarily and permanently enjoin the MV Realty HBA Defendants from entering into “high-cost mortgage[s]” within the meaning of 15 U.S.C. § 1602(aa) and 12 C.F.R. § 1026.32(a)(1)(i) without:

- a. Providing the disclosure as required by 15 U.S.C. § 1639(a)(1) and 12 C.F.R. § 1026.32(c)(1);
- b. Disclosing the annual percentage rate as required by 15 U.S.C. § 1639(a)(2) and 12 C.F.R. § 1026.32(c)(2);
- c. Regard to the consumers’ repayment ability, including the consumers’ current and expected income, current obligations, and employment, contrary to 15 U.S.C. § 1639(h) and 12 C.F.R. § 1026.34(a)(4) & § 1026.43(c); and

- d. First receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a State housing finance authority, that each such consumer has received counseling on the advisability of the mortgage as required by 15 U.S.C. § 1639(u) and 12 C.F.R. §1026.34(a)(5).

93. Enter declaratory relief that all such Homeowner Benefit Agreements entered into in violation of TILA/HOEPA requirements are void and unenforceable.

94. For homeowners who entered into Homeowner Benefit Agreements and paid any finance charges, award Plaintiff judgment, for the benefit of these homeowners, in the amount of all such finance charges as provided for by 15 U.S.C. § 1640(a)(1) and twice the amount of all such finance charges as provided for by 15 U.S.C. § 1640(a)(2).

**Relief Requested for Count XXIII
(Failure to Provide Complying Notice of Right of Rescission under the
Truth-in-Lending Act)**

95. Preliminarily and permanently enjoin the MV Realty HBA Defendants from enforcing the Homeowner Benefit Agreements for failure to include complying notices of rescission in the format required by 15 U.S.C. §1635(a) and 12 C.F.R. §1026.23(b)(1), Appendix H-8.

96. Enter judgment in favor of Plaintiff and against the MV Realty HBA Defendants (MV Realty of Indiana, LLC, MV Realty Holdings, LLC, and MV Realty

PBC, LLC), for violations of 15 U.S.C. § 1635, on behalf of all affected homeowners for recovery of all sums collected from such consumers.

JURY DEMAND

97. Plaintiff hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: September 5, 2023

Respectfully Submitted,

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